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ABSTRACT

This document presents the transcript (and written statements) of a congressional hearing on the potential politicization of the National Assessment of Educational Progress (NAEP) and the trustworthiness of the scores that the states received during the 1998 reading assessment. It addresses whether Vice President Al Gore's "release" of the results violated the apolitical nature of the NAEP, and whether or not including students with disabilities affected the results of the assessment. The document presents the opening statements of Subcommittee chairman Pete Hoekstra, and an opening statement of ranking Subcommittee member Tim Roemer. It then presents the statements hearing transcripts of Pascal D. Forgione, Jr., Commissioner of Educational Statistics, and Mark D. Musick, Chairman of the National Assessment Governing Board. Appendixes contain the opening statement of Pete Hoekstra, the written statements of Pascal Forgione, Jr. and Mark Musick; a policy statement on reporting and dissemination of NAEP results; and correspondence between committee members and those testifying. (RS)

ED 440 373

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REVIEW AND OVERSIGHT OF THE 1998 READING RESULTS OF THE NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS (NAEP)—THE NA- TION'S REPORT CARD

HEARING

BEFORE THE
SUBCOMMITTEE ON OVERSIGHT
AND INVESTIGATIONS
OF THE
COMMITTEE ON EDUCATION AND
THE WORKFORCE
HOUSE OF REPRESENTATIVES
ONE HUNDRED SIXTH CONGRESS
FIRST SESSION

HEARING HELD IN WASHINGTON, DC, MAY 27, 1999

Serial No. 106-44

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**REVIEW AND OVERSIGHT OF THE 1998 READING
RESULTS OF THE NATIONAL ASSESSMENT OF
EDUCATIONAL PROGRESS (NAEP) -
THE NATION'S REPORT CARD**

Thursday, May 27, 1999

**House of Representatives
Subcommittee on Oversight and Investigations
Committee on Education and the Workforce
Washington, DC**

The Subcommittee met pursuant to call at 9:30 a.m. in Room 2175 Rayburn House Office Building, Hon. Pete Hoekstra, Chairman of the Subcommittee, presiding.

Present: Representatives Hoekstra, Schaffer, Tancredo, Fletcher, Castle, Goodling, Roemer, Scott, Kind and Ford.

Staff Present: Robert Borden, Professional Staff Member; Becky Campoverde, Communications Director; Victor Klatt, Education Policy Coordinator; Patrick Lyden, Legislative Assistant; Michael Reynard, Media Assistant; Deborah Samantar, Office Manager; Rich Strombres, Professional Staff Member; Kent Talbert, Professional Staff Member; Christie Wolfe, Professional Staff Member; Cheryl Johnson, Minority Legislative Associate; Gail Weiss, Minority Staff Director; Mark Zuckerman, Minority General Counsel; Alex Nock, Minority Legislative Associate; Cedric Hendricks, Minority Deputy Counsel; and Roxana Folescu, Minority Staff Assistant, Education.

Chairman Hoekstra. The Subcommittee will come to order.

Pursuant to normal Subcommittee operations, opening statements will be limited to the Chairman and the Ranking Member. All other statements will be submitted for the record without objection.

We are doing pretty well. The last Hearing started early. This one started about three minutes late. So, on average, that is about two in a row. Let me give you my opening statement.

OPENING STATEMENT OF CHAIRMAN PETE HOEKSTRA, SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS, COMMITTEE ON EDUCATION AND THE WORKFORCE

We are here today to address the potential politicization of the National Assessment of Educational Progress (NAEP) and the trustworthiness of the scores that the states received during the last reading assessment.

As the nation's report card, the National Assessment of Educational Progress, or NAEP, is an ongoing, congressionally authorized program that collects data through surveys of the educational performance of students in America's elementary and secondary schools. The national assessment is carried out by the Commissioner of Education Statistics under the policy guidance of the National Assessment Governing Board, or NAGB. The Board was created in 1988 upon the recommendation of the Alexander James Commission, which urged that policy making for the national assessment be buffered from manipulation by any individual, level of government or special interest within the field of Education.

In 1990 NAGB adopted its policy statement reporting and disseminating national assessment results. This policy statement was and in my opinion still is, straightforward and unambiguous. Specifically, it states that "Reporting and dissemination of national assessment results shall be insulated from partisan political considerations and processes." In addition, "The public reporting and release procedures for NAEP shall be apolitical, similar to those of other congressionally mandated data gathering programs. This policy is necessary to ensure that the results and indeed the entire testing process is based on independent judgments that are free from inappropriate influences and special interests.

On November 6, 1998 the National Center for Education Statistics submitted its release plan for the 1998 NAEP reading test. The release plan stated that the press

conference would take place in early February, 1999 and would begin with introductions and data presented by Commissioner Forgione, followed by comments from Secretary Riley and a member of NAGB. This release plan was consistent with board policy that stipulates that "Reports of NAEP results shall be issued by the Commissioner of Education Statistics." It was approved unanimously by NAGB on November 21, 1998.

On February 10, 1999 Vice President Gore was the featured speaker for the release of the 1998 NAEP reading results, the first time any official higher than the Secretary of Education had ever participated in a NAEP release. The Vice President commented on several administration initiatives during the release including increased funding for Even Start and Head Start, connecting every classroom to the Internet, funds for schools construction bonds, 100,000 new teachers, and even AmeriCorps.

The point is not whether I am for or against the programs the Vice President was talking about. It is whether or not his speech was "insulated from partisan political considerations," as the NAGB policy stipulates it must be. In addition, it seems as if the Vice President was not telling the whole story about the test scores. He noted that, "for the very first time, reading scores have improved for each of the three grades measured by the National Assessment of Educational Progress, and this is great progress, and we are proud to report it." What the Vice President did not mention was that the fourth grade achievement level showed no statistically significant changes. Fourth grade scale scores were constant, and analysis from 1992 to 1998 in the 12th grade shows no net gain over the period.

During the press conference, the Vice President made quotes about a down payment on hiring 100,000 new teachers to reduce class size. He noted the administration had worked very hard to help states and communities marshal the efforts of thousands of young people through the AmeriCorp program. He even encouraged Congress to enact the President's agenda to improve education.

The Vice President's participation was not an apolitical release of educational data, but rather it seems it was an orchestrated media event to promote a political agenda. E-mails from the Office of the Vice President described the event as "a VP education event" that was "good for the VP, for the Department and for education."

The Secretary's office made suggestions about the program's dimension stating, for example "it is a reading day, why not push for reading dollars?" with regard to the Reading Excellence Act. According to Mr. Musick, a witness before the Subcommittee today, "The format, tone and substance of that event was not consistent with the principle of an independent, nonpartisan release of national assessment data."

Indeed, Education Week reported last March that Vice President Gore jeopardized the integrity of the test when he announced the 1998 reading results to a campaign-style rally. The Vice President's appearance as the featured speaker before the Commissioner differed considerably from the NCES release plan that was adopted by NAGB.

Chairman Goodling expressed his disappointment because of the politicization of the announcement in a letter sent to Secretary Riley on March 17, 1999. In his response, the Secretary claimed that Chairman Goodling's "concerns about the release of this data are unwarranted."

With all due respect to the Secretary, I must disagree with that assessment. I share Chairman Goodling's concerns and felt that the events surrounding the release warranted further review by the Subcommittee on Oversight and Investigations. The Committee has received materials from NAGB and NCES that reveal a blatant disregard for the policy statement on reporting and dissemination of national assessment results. According to information submitted to the Committee, Commissioner Forgione participated in a conference call on February 8 with representatives from the Office of the Vice President, the Office of the Secretary of Education and the Department's Office of Public Affairs. It is our understanding that at that meeting Commissioner Forgione supported an agenda in which he would open the press conference and then release the results at 10 a.m., followed by the Chairman of NAGB. Finally, the Vice President, the Secretary of Education and a teacher would be given an opportunity to comment on the results.

Subsequent to that meeting on February 8 and before the public release of the results on February 10, the Department informed NCES that the agenda had been changed. There was to be a shift in the order of the presenters and a delay until 11 a.m., at which time the Secretary and Vice President would open the press conference. At a minimum, the approved NCES release plan was disregarded. Subsequent to the press conference on February 10, NAGB had adopted the new language for their policy on the dissemination of results in an effort to clarify the necessity for the credible release of national assessment data.

As I mentioned before, I believe that the original policy adopted by NAGB in 1990 was explicit and unequivocal. When it comes to making important decisions about the NAEP test itself, NAGB should be completely isolated from politics. When it comes to measuring the progress of our nation's children, we need to ensure that scores are as accurate as possible and we must not let politics influence our ability to measure student achievement.

In addition to questions about the release of the scores, I have questions about how well the new NAEP inclusion policies are working. Why did the exclusion of students with disabilities and limited English proficiency increase since the 1994 test? Was NAGB acting independently and in the interests of getting valid test data when it decided to adopt a new inclusion policy for the 1998 reading test? Was NAGB pressured into making decisions that have brought us to where we are today, questioning the way in

which the results were released and the possibility that the scores themselves might have been clouded by politics?

These are questions that must be answered to understand what we need to do to protect the NAEP tests from political manipulation. Specifically, we should review the process in which the Vice President became the featured speaker, discuss whether or not the Vice President's comments were thorough and consistent with board policy, and revisit the issue of whether or not it is possible for NCES and NAGB to remain independent as currently configured.

I would like to thank our witnesses for appearing before the Subcommittee this morning.

OPENING STATEMENT OF CHAIRMAN PETE HOEKSTRA, SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS, COMMITTEE ON EDUCATION AND THE WORKFORCE - SEE APPENDIX A

Chairman Hoekstra. With that, I would yield to Mr. Roemer for any statement he may have.

Mr. Roemer. Thank you, Mr. Chairman. I ask unanimous consent to revise and extend.

Chairman Hoekstra. Without objection, so ordered.

OPENING STATEMENT OF RANKING MEMBER TIM ROEMER, SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS, COMMITTEE ON EDUCATION AND THE WORKFORCE

Mr. Roemer. Thank you, Mr. Chairman.

Mr. Chairman, I couldn't agree more with you from what you have said at one point in your statement that politics should not influence this process. We should not have politics influence the process, whether it be a President or a Vice President. We want to know how our kids are doing on these scores and why they are not doing better.

I am a little disappointed, quite frankly, that today's focus of the Hearing is on how this thing was released rather than what we can do to help our children in this country do better only their scores. That is the purpose of this Committee, that is the purpose of the education oversight, and I think that is what the American people want us to do in this Committee.

I was talking to a constituent last night who is a farmer, and her farm her family's farm is going out of business after 100 years in the hog farming business. She said, you know, you guys got a lot on your plate today. You guys in Congress have a war going on, you have got depressionary prices for our farmers, and you have got school shootings. You have got a lot of important things to deal with.

I think we should be dealing with school safety. I think we should be dealing with how to improve in revolutionary and bold ways how our schools do better to help our children, and not politicize this process.

I think that if we are not careful, GOP is going to stand for Gore: Obsessive Paranoia if we are not careful here.

Now, let's get to the facts on all this. The Vice President may have made a social faux pas. Maybe he should have let Mr. Forgiione speak first. But this information was released an hour before on the web. This information was out there for the general public. This is important information for the country to understand.

And I am told from my staff, who does great research and always hits the mark, that back in June of 1992, there was a letter from the Commissioner, I guess, Mr. Musick, your predecessor, Mr. Boyd, who wrote the following, "in accord with that policy," he is referencing something that happened, "the Board approved a plan for the release of the 1990 NAEP reading report at a press conference in Washington. I was surprised and disturbed therefore to learn that on the day before the scheduled press conference of the main results in the report were released prematurely by President Bush." By President Bush.

Now, we can have a Hearing on how President Bush released these prematurely and speak about that. Quite frankly, I am not interested in that. I am not interested in President Bush talking about these NAEP scores at a private fund-raiser or school the day before.

I think with Vice President Gore being part of the conference, maybe he should have said, Mr. Forgiione, you go first. According to the statute, technically, you should be the first one to talk, and then I want to talk about these scores as well. Maybe that is the social faux pas.

But I don't think our next step in this Committee should be to have Tipper Gore come up here and start asking Tipper Gore, you know, do you raise your hand before you talk at a PTA meeting?

I mean, let's not be obsessed with politics here. Let's get to what this Committee is supposed to do. How do we look at and assess these scores and their impact on our children and our teachers and our schools and how do we boldly improve our schools for all of our children in this country? That is, I think, what we should be concentrating on.

Now, we can talk, I guess, all morning about what President Bush did or what technically Vice President Gore did. I am not interested too much in that. I am interested in, was this report accurate in what it assessed with some of the physically challenged and disabled kids? Was it accurate with respect to 14 States or two States reporting on those physically challenged kids?

But I also want to talk, Mr. Forgione and Mr. Musick, about how do we get to some test scores in the next 10 years that we can look back on and say, our Nation's children are doing better every single year. Our schools are getting better because of things we did in 1999 in education. That is what I am interested in. Not politicizing this process, not going back in history and talking about President Bush or Vice President Gore and how they may have made a social faux pas in releasing this data.

So, I would hope that we would get to what you and I, Mr. Chairman, have worked on in bipartisan ways, in cooperative ways, in genuine ways, on a Hearing on school safety, on some Hearings on bold and creative reforms in public education, some Hearings on what Paducah and Pearl and Jonesboro and Springfield have done to make their schools safer in light of the tragedies they have gone through. Let's get open to some of these very important programs for our Nation's children and for our Nation's schools.

I yield back the balance of my time.

Chairman Hockstra. I thank the gentleman for his statements. I think you are right on. I am disappointed you are not all that interested in the integrity of the process. We have an agency out there that has rules and regulations, and they really need to be independent so that they can drive the debate. They provide us with the statistics so we can have the debate rather than becoming perceived as a mythical organization where we are arguing about the results which happens when we might cease that kind of activity. That is not what we want to have happen. So I am very interested in maintaining the integrity and the support that these organizations have achieved and that these individuals strive for. I think if we lose that, a lot of the other things that we have just doesn't make much of a difference and we can't have a good debate any more.

Let's get on to the panel. Mr. Castle, thank you for joining us this morning. I understand you would like to introduce Dr. Forgione.

Mr. Castle. Thank you, Mr. Chairman. I share the thoughts of both you and the Ranking Member in many ways. The process should be above any question whatsoever. If you are going to test, and believe me as somebody who was a Governor if your state is going to be compared, you want to make sure the test is fair and not politicized. Of course, we are addressing all the other issues as well.

I guess I have a choice of who I could introduce here, because I also know Mark Musick well and I can vouch that he is one of the fine people involved in education in this country. I had the pleasure of serving on the National Assessment Governing Board with Mark, and there is nobody finer or more caring about education than he is.

But Dr. Forgione and I actually worked together in the State of Delaware so it falls as my lot today to introduce him. Prior to the last four years during which he has been Commissioner of the National Center for Education Statistics, Pat served as the State Superintendent of Public Instruction for the State of Delaware from 1991 to 1995. That means he essentially ran education in the State of Delaware. In 1991, he served as Executive Director of the National Education Goals Panel so he had experience in that. And before that for four years he was a Division Director for Research in the State of Connecticut's Department of Education.

He has, as you would imagine, won many awards and appointments including the Leadership Recognition award from the National Center for Education Statistics. He received his B.A. of Sacred Theology from St. Mary's Seminary and University, his Masters in Educational Administration from Loyola College, and his M.A. in Urban History and Ph.D. in Administration and Policy Analysis from Stanford University. He has more education than anybody could ever need.

But the bottom line is he is this. He is extraordinarily energetic, he is obviously extraordinarily intelligent, he is extraordinarily apolitical, he is an individual who is devoted to what he does which is essentially trying to help children in education, and he has in my judgment, probably committed his life to that as much as anybody in the public arena in this country today. He is, I understand, not to be appointed again which I think is a tremendous loss for the country based on the personal experiences which I have had with him.

I am also concerned about the integrity of the process. This actually started when questions were raised about some of the students who have learning disabilities not being properly included in the test statistics. Secondly, is a political question which I think is perfectly legitimate to raise before the panel and these questions do need to be raised. I can't imagine two better people to answer them. I am happy to introduce Dr. Forgione.

Chairman Hockstra. Not a bad beginning and introduction to Mr. Musick, the Chairman of the National Assessment Governing Board here in Washington and President of the Southern Regional Education Board in Atlanta. He has served as Chairman of the National Assessment Governing Board since October of 1996, as a member of the Executive Committee and Achievement Levels of that Committee. As Mr. Castle has indicated, he is also very well respected in the educational community.

Welcome to both of you this morning. We will begin with you, Dr. Forgiione.

STATEMENT OF PASCAL D. FORGIONE, JR, Ph.D., US COMMISSIONER OF EDUCATION STATISTICS, NATIONAL CENTER FOR EDUCATION STATISTICS, OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT, US DEPARTMENT OF EDUCATION, WASHINGTON, DC

Mr. Forgiione. Good morning Mr. Chairman and Members. I am Pat Forgiione, the U.S. Commissioner of Education Statistics in the National Center for Education Statistics with the Department of Education.

I was originally going to summarize my answers to the 11 questions specified in the April 21st Memorandum that are contained in my testimony. But given the recent events I believe it most important that I offer some personal comments to set an appropriate context for this morning's discussion.

In light of the issues that have brought us here today I wish to clearly emphasize that over my 3-year tenure as U.S. Commissioner of Education Statistics, the integrity of NCES statistical processes have not been violated with respect to the identification of studies to be conducted, the design and implementation of those studies, and the analysis and content of our statistical reports. However, there is one area that I believe needs attention and that is the release of the Agency's statistical findings. This is one issue that has brought us here today.

Over the last three years, I have become sensitized to and more acutely aware of the issue of safeguarding the independence of a federal statistical agency. My primary goal has been to protect the Nation's data agenda. Critical to this is the release of results that are, and are perceived to be, objective and nonpartisan. There will be much discussion this morning on a variety of issues, but please do not be distracted from the heart of the matter, the integrity and independence of the statistical function in education.

The landmark Report, *Principles And Practices Of A Federal Statistical Agency* produced by the National Academy of Sciences National Research Council, identified two essential prerequisites for the effective operation of a federal statistical agency. First, a clearly defined and well-accepted mission. Second, a strong measure of independence.

The Report states, "To be credible, a statistical agency must clearly be impartial. It must avoid even the appearances that its collection and recording of data might be manipulated by political purposes."

Thus, it is in everyone's interest to have clear boundaries. The situation of ambiguity in releasing reports invariably leads to awkward situations that do not serve the Nation well. With the appetite for sound and unassailable education data at an all-time high, I believe it is all the more vital at this moment to give the National Center for Educational Statistics the institutional protection it needs to fulfill its statutory mission.

I have already submitted my to you statement in response to your series of questions regarding the 1998 NAEP reading results. I am prepared to answer any questions following Mr. Musick's comments.

Thank you very much.

WRITTEN STATEMENT OF PASCAL D. FORGIONE, JR, Ph.D., US
COMMISSIONER OF EDUCATION STATISTICS, NATIONAL CENTER FOR
EDUCATION STATISTICS, OFFICE OF EDUCATIONAL RESEARCH AND
IMPROVEMENT, US DEPARTMENT OF EDUCATION, WASHINGTON, DC
SEE APPENDIX B

Chairman Hoekstra. Thank you very much. Mr. Musick

**STATEMENT OF MARK D. MUSICK, CHAIRMAN, NATIONAL ASSESSMENT
GOVERNING BOARD, WASHINGTON, DC**

Mr. Musick. Thank you, Mr. Chairman. I am Chairman of the National Assessment Governing Board, which sets policies for the National Assessment, and as you noted President of the Southern Regional Education Board. As you know, the National Assessment was created in 1988 by Congress. It is an independent, bipartisan, 26-member group composed of state and local officials and yes, Congressman Castle was a valued member of that group.

The National Assessment sets policy and is the only program that provides sound comparable data, we would argue, on what American students know and can do. We have been doing this since 1969.

In many respects the National Assessment, as Al Shanker called it, a treasure, has become the Nation's most valuable and reliable report card on student achievement in our elementary and secondary schools. It is because of NAEP's role as an independent external measure that I believe the administration and the reporting of the National Assessment must be scrupulously honest, consistent and fair.

The blue ribbon commission which recommended the National Assessment Governing Board's creation envisioned the Board as Congressman Hoekstra said to buffer the National Assessment from what it called manipulation by any individual, level of government or special interest within the field of education. Now the blue ribbon commission referred to earlier was appointed by Secretary of Education Bennett, co-chaired by Governor Alexander, including Commissioner Forgione and the then First Lady of Arkansas. They recommended a structure that would supply needed checks and balances and separations of power for this important and sensitive enterprise.

I would note that I have been appointed to the Board by Secretary Bennett, Secretary Alexander and Secretary Riley, and the current Vice Chair was appointed by Secretary Alexander and Secretary Riley. I say that only to emphasize the nonpartisan and nonpolitical. Congressman Mike Castle once said in 1994-95 during the reauthorization discussion and debate, "This may be the most nonpolitical group I have ever been involved with. Maybe you should be more political. We have tried to be nonpolitical, even without Congressman Castle's advice. His advice then was we needed to make what we were doing better known to Congress.

The Board adopted its first policies about issuing results in 1990. Since that time, we have issued more than two dozen reports. There have only been two occasions in which we felt that our policies were not followed. Both of them have been described this morning, the first being in 1992 with President Bush, and the latest being in February with Vice President Gore.

In both cases, the Chairman of this Board registered publicly, and we hope clearly, our concern that these actions were contrary to the Board's policy and could in the long term harm the credibility of the National Assessment. You have copies of those letters. The Board met two weeks ago and we reviewed its policies after discussing the February release at its March meeting. We also had a release in March of the state reading results, and that followed completely as has nearly another two dozen releases the Board's approved plan.

The Governing Board sets policy for NAEP under the law, but the Commissioner carries out that policy. This goes back to the 1988 legislation where it set up this structure of checks and balances. The Commissioner implements the Board policies, but

as you know, he is an Officer of the Department of Education and falls under the Department's operational scheme.

Now, you have my statement about the release. I think the important thing from the Board's standpoint is that two weeks ago we revised our policy slightly and stated that the initial release of NAEP data shall be independent and apolitical, and separated clearly from other programs and policies. We have added that the official press statement or release announcing NAEP results shall be issued by the National Center for Education Statistics, rather than by any other Department, any other part of the Department of Education.

With regard to the issue of exclusion of NAEP students, the Commissioner has had a preliminary report which he presented to the National Assessment Governing Board two weeks ago, and he is prepared as I am, to comment on that issue as well this morning. But I will stop with my initial comments on the release of NAEP results.

WRITTEN STATEMENT OF MARK D. MUSICK, CHAIRMAN, NATIONAL ASSESSMENT GOVERNING BOARD, WASHINGTON, DC - SEE APPENDIX C

Chairman Hoekstra. Thank you both very much for your testimony.

My colleague has described what happened as just a social faux pas by the Vice President, but throughout both of your statements I sense a real commitment and a real urgency to maintaining the integrity and the independence of the process. Is that correct?

Mr. Forgione. Yes.

Mr. Musick. Yes.

Chairman Hoekstra. For what reason is that?

Mr. Forgione. As I tried to state it is very important. I think the fact that we are here today with the interest of so many actors that perception becomes reality and therefore how we proceed is very much at stake in the belief in the data. I do believe this was inadvertent, but I think it points out the need to have more clear boundaries so that this will not be an issue in the future.

Chairman Hoekstra. And you strive for this in all aspects of your work? So it not only the release of the data, it is also independence as you structure the tests and those types of things. Is that correct?

Mr. Musick. I would certainly agree with that. We, the Board and I think the Commissioner would probably agree, can be accused of being purists when it comes to NAEP data. We do believe that ultimately the integrity of this data when you get to the core of it is what you have.

We know the data will be interpreted. We expect that. However, we also believe the data will drive the debate. We know there will be debates about this data. Our concern is that the facts be presented and released in a nonpartisan, nonpolitical way, and then let the debate and the interpretations begin.

Chairman Hoekstra. I am trying to think. Who was it, Joe Friday, "Nothing but the facts." That is kind of your job.

Mr. Forgione. The Board can have more in expression. It is the Commissioner who is really Jack Friday in the sense of facts only.

Chairman Hoekstra. Joe Friday.

Mr. Forgione. The Board can make comments about what this means, and they do it in a balanced way. The Commissioner certainly has no interest or perspective on what the data means.

Chairman Hoekstra. I think this is why this issue is important to me and why I think it should be important to Mr. Roemer. As you described it, this process in the work that you do begins the debate, it does not end the debate. Is that correct?

Mr. Musick. Yes. Yes, sir, I believe that is right.

Mr. Forgione. Yes.

Chairman Hoekstra. If part of the debate is whether it was used for political reasons or it is driven by political motivations or these types of things, it really doesn't help the process at all. That is why you so jealously guard your independence from political interests, correct?

Mr. Forgione. Yes.

Mr. Musick. Yes.

Chairman Hoekstra. Mr. Musick, regarding your restatement of how the results are supposed to be released in the future, does it say that these will now be released only by the Commissioner of Education Statistics, or does it just say independent from other agencies within the Department of Education?

Mr. Musick. The policy reads that the official press statement or release announcing the NAEP results shall be issued by the National Center for Education Statistics rather than by any other part of the Department of Education.

As you know, all of the Secretaries since the National Assessment Governing Board has been formed, have participated in the releases of data periodically. But what we are saying is the Commissioner speaks first, the Commissioner puts the data on the table first, and the Commissioner presents the facts first. Then any interpretation by the National Assessment Governing Board, the Secretary or anyone else follows either that presentation the next day, in coming months, or in coming years in fact.

Chairman Hoekstra. Mr. Forgione, for the release we are talking about that is the agenda that you propose, correct?

Mr. Forgione. That the Governing Board had approved and that I brought to the Department, yes.

Chairman Hoekstra. Did you have discussions with the Secretary and the Vice President about that?

Mr. Forgione. Yes. Towards the end of this process interest was shown which often happens, and at that point we had a conversation to try to allow for that after the Commission and Governing Board would present the data. Really, there is much flexibility. It can take place in 5 minutes or that afternoon, and that was the intention that I believe was communicated and that we held to.

Chairman Hoekstra. My time has expired. We are going to break. We have got a vote on the journal on the floor. We should be back in about 10 or 12 minutes. At that point in time we will move to Mr. Roemer.

[Recess.]

Chairman Hoekstra. The Subcommittee will reconvene. Mr. Roemer.

Mr. Roemer. Thank you, Mr. Chairman. Mr. Forgione, let me ask you a couple of very simple, easy questions. I am also concerned about the independence and the nonpartisanship and the honesty and consistency and fairness of this process, so let's get right to it. Is there anything that has politicized the collection in this process?

Mr. Forgione. No.

Mr. Roemer. Thank you. Is there anything that has politicized the contributions to this process?

Mr. Forgione. No.

Mr. Roemer. Is there anything that has politicized the analysis in this process?

Mr. Forgione. No.

Mr. Roemer. So the whole question comes to the release. There is no question of the integrity of the process, the compilation of data, the analysis of data. Everything is by the book. It all comes to the release that we are talking about here today.

Mr. Forgione. Yes.

Mr. Roemer. Okay, that is helpful. Now, on page 4 of your testimony you say the release, according to your guidelines, "This can take the form of a publication, a data file and/or an electronic release."

Now, this was released an hour before the press conference, electronically. Is that correct?

Mr. Forgione. Yes, it is.

Mr. Roemer. So according to your guidelines, even the release of this material was by the book?

Mr. Forgione. There is a subtle but important difference here. When I was asked the question I answered it honestly, that in my view it does affect the perception of

objectivity in this case. But I do believe it was probably inadvertent and that is an important perception. I think a lot of the consternation we are facing, and as you said the distractions from looking at the data, are because of that distraction.

Mr. Roemer. Go to page 5 of your testimony and get right to that. You say on page 5, "The Commissioner electronically released the national NAEP data on the NCES web site at 10 a.m. that morning." Then you go on to say basically what you just said to me. "However, the fact that someone other than the Commissioner was the first one to announce these findings publicly at the press conference created a perception."

What we are here to clarify and spent all week with staff time and Member time and so forth is what you have now announced in your new guidelines, with an addendum, that now nobody in politics can release this data in the future. How long ago did you clear this up? When did you add that?

Mr. Forgione. Two weeks ago, I believe.

Mr. Roemer. Two weeks ago. Before we had this Hearing, you had clarified your rules to say whether it is President Bush, Vice President Gore or whether it is President Gore or President Bush in the future. We now have clarification on exactly who can release this data, is that correct?

Mr. Forgione. Yes.

Mr. Roemer. So we think we have solved the problem, is that correct?

Mr. Forgione. Yes.

Mr. Roemer. So why are we here?

Mr. Forgione. When one is asked to come and answer questions about an important issue, one does that.

Mr. Roemer. I am glad you showed up. You would probably have been in trouble Mr. Forgione, I am being facetious, if you said no. I think you have answered all my questions very clearly about the integrity and the honesty and the fairness and the independence of the process. We have attempted to clear that up. We have attempted to make sure that in the future there is not even an iota of perception problem here with who releases this data in the future, whether it is electronically an hour ahead of time.

Now we have clarified the rules as of 2 weeks ago. You did it independently. Somebody in politics cannot release this in the future.

You do say, or at least it has been said by your predecessor, Mr. Musick. Mr. Boyd said in his letter where he is complaining and surprised and disturbed about President Bush releasing this prematurely, a day early you say, "Of course, we are pleased by the President's interest in NAEP and realize his attention adds greatly to public awareness of NAEP results."

My final question would be now that we have clarified this and seem to be moving in a direction where there wouldn't be a perception problem in the future, how do we balance the line between making sure that this whole process is independent, fair, nonpartisan with showing that there should be after it is released some political interest in this? Mr. Musick?

Mr. Musick. Yes. We and others have often cited some examples, the Bureau of Labor Statistics gets cited quite often, of releasing important economic statistics. Then those statistics are commented on elsewhere or commented on later following that official release. Without stretching the analogy, I think that is at least in the general direction that we see the National Assessment operating.

Obviously others had said at the time that reading is so important in America, how can it be a problem when lots of people want to talk about reading? And that is a persuasive argument. We, and again I don't apologize for being purists in this, believe Joe Friday should put the facts on the table. There should be, as you pointed out, no question about the integrity of those facts. The discussion and interpretation should take place all across America, not just in press rooms in Washington, D.C.

Mr. Roemer. Thank you, Mr. Musick.

Mr. Forgione. If I could add one comment, the Governing Board assists the Commissioner in the release of the National Assessment data. We have a much wider portfolio of education data. I would ask you and the Chairman to consider as you are looking at the reauthorization of my agency presently, to think about putting protections that would institutionalize this relationship so that the boundaries are very clear and it will not lead to these awkward solutions.

Mr. Roemer. Thank you. Thank you, Mr. Chairman.

Chairman Hoekstra. Thanks, Mr. Forgione, for those comments. I think that one of the things we are looking at here in the Subcommittee as we consider reauthorization is how do we build those protections into the process to ensure that this is a fully independent agency. It may require legislative changes rather than just some internal

rewriting of the rules and those types of things. Mr. Castle.

Mr. Castle. Thank you, Mr. Chairman. I came here and was interested in this Hearing because of the problems with the test itself. Now I am concerned about the independence of the agencies and also about the Vice President's role and 5 minutes isn't going to do it.

I would like to get to the bottom of all of this. Maybe I should ask Dr. Forgione. What is your judgment with regard to the National Center for Education Statistics on institutional protection? As I understand it, it is strictly under the guidance and control of the Department of Education. I don't mean in a political sense, it is just they control who works there and who doesn't work there. They control most of the activities of the organization.

Should it be, and you are not to be reappointed as I understand it, more independent? If I have time I am going to ask Mr. Musick should NAGB and NAEP be totally independent? What about the agency you work for? Should it be more independent from the Department of Education? Would that help with some of the depoliticizing of it?

Mr. Forgione. To provide the Commissioner with the authority in the area of personnel, budget and the release of reports would be a substantial enhancement to that integrity. Obviously you can work it out and I have had a terrific relationship with the Department. But it does take energy and roadblocks come up and priorities can bump your priorities.

Other statistical agencies do have this protection. Look at the legislation for the Energy Statistics Organization and Bureau of Labor Statistics. I don't think anyone would fault that especially at this moment with the prominence of education data. You know, during the eighties no one was listening to the data. It didn't have the same capital. These are so important now I think you need to think about this new context.

Mr. Castle. You may not have done this Dr. Forgione in your statement but I have a whole notebook filled with questions. I would love to have in writing your thoughts about how the Agency that you are heading now should be handled.

SUBMITTED FOR THE RECORD, LETTER FROM PASCAL D. FORGIONE, JR,
Ph.D. TO PETE HOEKSTRA, CHAIRMAN, SUBCOMMITTEE ON OVERSIGHT
AND INVESTIGATIONS, COMMITTEE ON EDUCATION AND THE WORKFORCE,
JUNE 14, 1999, PAGE 3, ITEM #13 - SEE APPENDIX G

Mr. Castle. Mark, could we ask you the question on NAGB and NAEP? I have often thought that maybe they should be completely independent, and also your relationship

with the National Center for Education Statistics. That was always a little bit of a troubled area when I was on the NAGB board. What are your thoughts about the independence and relationships of these organizations, as rapidly as you can?

Mr. Musick. I will make three points. When the Alexander James group considered this for more than a year in 1987 and came up with the proposal that Congress adopted in 1988, it envisioned a structure with shared power, a board, a contractor in the Federal Government.

A year ago That Congress gave the Governing Board the exclusive authority for something called the Voluntary National Test Proposal. Now we have exclusive authority for something that does not yet exist and we have shared ambiguity for the National Assessment program. So this sharing arrangement I would argue has worked but it does create ambiguity. The Board is trying to deal with the difference between exclusive authority and shared ambiguity, Mr. Castle, and I would have to think more about that.

Finally, today the relationship with the National Center of Statistics and the Governing Board, I would argue, has never been stronger. Commissioner Forgione's relationship with the Board, his openness, the way that we worked through the redesign for the National Assessment showed that he did not try to play things real close to the vest.

Mr. Castle. That may be institutional, may it not? Maybe I am referring to a different time when I said it was a little more fragmented. Should we institutionally change it to make sure it is always like that or the proper distance is there?

Mr. Musick. I think you can argue that the reason it is more personal today than institutional is that it reflects a leadership style.

Mr. Castle. I would appreciate hearing any thoughts you have on that. Let me ask you, and I am going to run out of time sooner than I would like to, on this particular round of tests there were some serious questions raised, at least in certain states, about certain students who might have achieved at lower levels. Learning disabled programs for lack of a more inclusive expression, were not given the test in the same percentage as they might have been in other states or other years. That really bothered me. That bothered me as much as anything.

I would like your comments on that. I have spoken to Dr. Forgione about this, and I don't consider it to be de minimis. I consider it to be significant. If you are going to give these tests, it is absolutely imperative they be fairly given and depoliticized. If there was a problem, we need to get to that and make sure that that is being eradicated.

Mr. Forgione. I can say to you unequivocally, the administration of the National Assessment at the national level and in the 43 states that took grade 4 and the 40 that took grade 8 had no incidence of any abrogation of administration.

What is happening is in the state contexts they are serving more kids in Special Ed, and those individual plans are identifying and maybe not yet perhaps giving the instructions when you can take the test and not take it. That is leading to variation. But I can also say to you the Study we just completed says this had modest impact on the results. I know the numbers look big.

Mr. Castle. But a little bit of that, with all due respect, is educational or understandable language. I was going to say gobbledygook. The real bottom line is there are some differences in some of the people taking the test. You may argue it is not significant, but because of what you just went through there are some differences in who is taking the test and who isn't. Maybe we are not comparing the same oranges to the same oranges every year to year, or 2 years to 2 years.

Mr. Forgione. All you can do is go into a state and say all children should be tested. Give me your fourth grade list. We pick the 30 kids. Then the principal can only say Pat and Mark can't take the test because his IAP says so. We are driven by that. There is not uniformity throughout the country as to where those things happen. That is the only difference.

So I think we have uniformity as best we can. We are going to tighten up with the Board's help. If there is variation in the future, we may not produce your result because we may believe they lead to an unfairness.

But you are absolutely correct, the Governing Board is committed to a perception and reality of fairness. At this moment I can tell you, the 1996 mathematics test was not consequential in this matter, and I can say to you it is only modest here as you can read in my statement.

Chairman Hoekstra. Mr. Scott.

Mr. Scott. Thank you, Mr. Chairman. First of all a very brief question in terms of which is worse. Is it worse to participate in an announcement after the data is on the Internet, after the results are on the Internet, or is it worse to make announcements at political fund-raisers the night before the report is released? Is there any question that announcing at a political fund-raiser the night before is worse?

Mr. Musick. Both of those were...

Mr. Scott. There is no question that announcing it at a political fund-raiser the night before the report is issued is worse. Is that a fair statement?

Mr. Forgione. I would agree they are both inappropriate.

Mr. Scott. You would agree that a political fund-raiser is worse, if anybody can get the information off the Internet after it is already on there? You have problems saying that it is worse to make the announcement at a political fund-raiser in terms of which more politicizes the report? If you have a problem saying it is worse, just say you have a problem saying it is worse. It is a simple question.

Mr. Musick. Congressman Scott, the two occasions I would argue were both in violation of the policy. The things that were said at the two occasions differed quite dramatically in terms of the breadth and depth of the comments.

Mr. Scott. So you have problems saying that announcing before the results have been made public at a political fund-raiser is worse than making, participating, in an announcement after the report has been put on the Internet. You have a problem saying it is worse?

Mr. Forgione. I don't think we addressed the fundamental question, which is the perception of integrity and the belief in the data, and one must address that. The degree of difference I don't think is really at issue. What is at issue is the public's confidence that the results are correct.

Mr. Scott. I thought it was a simple question. Obviously it wasn't. You have a problem saying that politicizing it, bringing it up at a political fund-raiser before it is announced, isn't worse than commenting on it after it has already been made public. I just say that because the other comments have to be taken in the context of the way you have answered that question.

Let me ask about the results themselves. Have the results been validated in terms of being meaningful? Do students who do well on the tests get better jobs, get better grades, are more likely to get into or perform well in college?

Mr. Forgione. At this point, there are not validity studies that are associated with the performance levels of the Governing Board. In other words, if you are basic, proficient, advanced, what are the consequences in the future for that? The Governing Board is using a judgmental process that is equal to what the states do, that says have you met the standard or not. They haven't gotten into what we call the "consequential validity" of it. It is more the base validity and that the test represents the constructs that the public has said are important, and the tests measure those.

Mr. Scott. The concern obviously is that some of these standardized tests have a racial bias, and if they are not validated then that would obviously cause concern. Is there any attempt to try to get validation?

Mr. Forgione. Well, we do bias analysis. I wouldn't call that validation but I can see in a common sense that you can use that. There is strict bias analysis done on every item to ensure that it doesn't have a difference impact on different categories of students because we want to use an item that would be fair and reliable. Therefore, that is strictly done. The National Assessment is probably the premier assessment in this country, if not the world, given the investment we make in it.

Mr. Musick. The kind of validity question I think you are asking, Mr. Scott, for the National Assessment, gets, as Congressman Castle would testify, a little complicated, because individual students don't actually take a National Assessment of course. They take a slice of the National Assessment. It is a survey examination.

Mr. Scott. My time is about to run out now. I want to get in one other question. Do you see certain variables in terms of good results? Do you see better results with smaller class sizes, better teachers, higher paid teachers? Can we learn anything through the assessment in terms of what we ought to be focusing on to improve education?

Mr. Forgione. The nature of the National Assessment is a survey assessment, not a testing program. We can tell you how the Nation is doing over time or a fourth grade class in 1992, 1994 and 1998. It doesn't have the ability to look at evaluative effects. It is not designed as a longitudinal study, it is cross-sectional. So you can't make those kinds of conclusions.

Every now and then we can see a correlation and we try to do secondary analysis. But the design is not meant to ask if Title I is working or is this working. We can tell you if poor kids are learning, but we don't know what program those treatments come from. It is an indicator, not a program evaluation tool.

Mr. Scott. Mr. Chairman, I don't have time to follow through on this, but it seems to me that if you are doing a survey, you ought to have enough statistical data to draw certain conclusions, and if we are going to be giving the tests we ought to be able to cull out some of this information. I would like to follow through on that at a later date.

Chairman Hoekstra. Mr. Fletcher.

Mr. Fletcher. Thank you, Mr. Chairman. I appreciate you conducting this Hearing and I appreciate both of your testimonies. Let me start with making a statement.

You know, the object of this was really to depoliticize the educational assessment, for us to be able to really tell how are we doing, and how the programs we are implementing are doing. It is not for individual students to predict if they are going to be doing well. So we need to keep focused on that.

I want to look at how it has been politicized. When I look at the comments that Vice President Gore made, he said, "I am pleased today to be able to release the results." Clearly this was a premeditated, intentional effort to do something that was against the regulations and the intent of what we have established here.

He says, "Well, today I am very proud to be able to report to you new evidence that our efforts are beginning to pay off. For the very first time, reading scores have improved for each of the three grades measured by the National Assessment of Educational Progress: 4th grade, 8th grade and 12th grade. This is great progress and we are proud to report it."

I looked at the results, and the fourth grade achievement levels showed no statistical significant change. Fourth grade scale score net gain is constant, 8th grade scores do represent progress in short and long term and 12th grade scores overall showed no change from 1992 to 1998.

It looks to me as if not only did he go out of his way to report something that he really shouldn't have done and to use it for political gain, but he exaggerated extremely the results of the test for political gain. There is certainly apples and oranges when you look at a side remark that was made by someone who is not in public office anymore and is not going to be there in the future.

Let me ask a few questions, especially that relate to Kentucky. First off, I want to say I understand there are about four states that registered large increases in the exclusion rates from 1994 to 1998, and Kentucky was one of those. Also the adjusted scores appeared smaller for all four states, but the results remained statistically significant for all but Kentucky. I just want to ask a question about that. As I understand, Mr. Musick, would you please explain why the NAEP exclusion policy changed in 1996?

Mr. Musick. In part because there are lots of things changing across America. I think this gets to a question of Congressman Scott. We are seeing a time of state efforts to expand services for disabled students and to test them in Kentucky. The KATS program tests them under nonstandard conditions with what is called accommodations, giving students more time and helping them take the test.

So the states all across America are trying to include more students in their testing programs. NAEP has had a longstanding tradition of trying to include more students. So

the reason we changed that in 1996 was to try to take into account what is going on across America while, and this is a big "while", maintaining our trends and our ties to what went on 2 years and 4 years and 6 years before.

Mr. Fletcher. Do you think that could have resulted in any way in some elevated scores or looked like there was progress because of changes in the sampling?

Mr. Musick. Well, the Commissioner is better prepared than I to comment on that. I will simply say we will be releasing written results in a few months, a few weeks really. We will be looking at the kinds of questions you are asking, Congressman Fletcher, the kinds of questions our analysis has done. Before we changed the exclusion-inclusion rules, we did a year of pilot testing. We looked at it both ways. We used tests with no accommodations and tests with accommodations.

Mr. Fletcher. Let me interrupt. I have one more question. How do you know that states interpret inclusion rules in the same way? Kentucky has been used as an example of how the interpretation of this policy can really change scores. How do you ensure uniformity?

Mr. Forgione. We administer these tests at the national level. We go out and do it in 400 schools. In the states, we train independent individuals who go into the schools and oversee it. So the states are not controlling this, they are using the common criteria and applying it. So we have the stability.

We have also looked over time if the old criteria and the new criteria has changed the national measure? There is an old maxim: Don't change the measure if you want to measure change. So that was the tension we were in. We did a study saying that the new criteria and the old in mathematics gave us the same distribution, so statistically we could use the new criteria, and that is why the Board went to that.

Mr. Fletcher. My time is up. I appreciate your answering the questions. I would say in closing I really think some of the politicization of this shows the dangers of manipulation and the political abuse that would take place if we really established national testing.

Thank you.

Chairman Hoekstra. Mr. Ford.

Mr. Ford. Thank you, Mr. Chairman. I am pleased in some ways that I am hearing a lot of concern from my colleagues on that side of the aisle. I know there is genuine concern for how we can improve the quality of education in America. I am a little dumbfounded as to how we could be remotely upset that anyone could announce the fact that we are seeing some progress and movement in the right direction as relates to kids' reading.

I am from the state of Tennessee not far from Kentucky and my friend Mr. Fletcher and the others on that side. It amazes me that we would really call a hearing to criticize the Vice President for announcing the fact that we are moving forward particularly after our witnesses, Mr. Scott and I are a little offended, whom we are glad are here, couldn't answer the obvious. These findings that the Vice President announced were already released or were already electronically released.

President Bush, who I had great respect for and I hope his son remains Governor of Texas, Mr. Fletcher, made the comments at a fund-raiser prior to the release of these findings. The Vice President, it is my understanding, made this announcement after the release at what could be considered a political event, and we are all politicians so anything we do is for political gains in many ways. So let us not be that naive and certainly ignore political realities. We are not going to all try to make gains.

But it just amazes me that we would actually hold a hearing on something so unimportant, when we have had to fight and fight and fight to convince my colleagues on the other side of the aisle that we ought to maybe explore what happened in Paducah, Pearl, Littleton and Conyers. We pray for those families and communities as they try to heal.

I would just have a few questions for the Commissioner. Commissioner Forgione forgive me, I am from Memphis and we have problems pronouncing those last names. I hope I am pronouncing your last name correctly. During your tenure at NCES has anyone ever abridged your ability to design or implement any study or any NAEP studies?

Mr. Forgione. No.

Mr. Ford. Did the electronic release of the NAEP results at 10 a.m. on February 10th fulfill your responsibility as Commissioner to release the data?

Mr. Forgione. It fulfilled it in one sense, but normally when we have a press event, the press event is seen as the more visible and therefore can set a context that one has to take into account. Electronically, typically, is done when we don't have a press event and get it out to America. Sometimes I always electronically release it, because I want the world to see our information.

Mr. Ford. So you wouldn't be surprised if you released something for the world to see and a little elementary school in my District which had access to the Internet saw it and decided to call the media and said hey, we see that reading scores are improving for students at our public schools throughout this District. You wouldn't necessarily be offended at that fact, would you?

Mr. Forgione. No, we would compliment them.

Mr. Ford. I have only been here a term and a half, but it sounds like to me we have folks crying over sour grapes. Maybe if somebody down in Texas had had an opportunity to announce these results a little sooner, we might not be as upset as we are now and might not have been provoked to call a Hearing.

The Vice President didn't invent the Internet, I think he did. Some folks don't believe he invented the Internet, but I think he did. He just happened to find this information a little quicker than other folks and happened to have a speech a little later that day announcing the fact that the President and he are committed to redoubling their effort to educate kids. I am trying not to be partisan here. He just happened to announce the fact after it had been released across the Internet that we are seeing some improvements.

I know my friend Mr. Hoekstra would have to be pleased, as he turns on my light, that we are making progress on these fronts.

I hated to have dominated my time and not allowed Mr. Musick to have a long period of time to respond. I know the question has been asked before, but I just want it in the record one more time. I know Mr. Scott tried to get at this, but would you characterize President Bush's action of announcing the 1992 results at a fund-raiser. I think I am quoting you sir, and if I am not correct me, as an event that was not consistent with the principle of an independent, nonpartisan release of National Assessment data? I think you might have made that comment sir, if I am correct, as related to Mr. Gore.

Mr. Bush's comment, and I think he had every right to make the announcement even if he decided to try to use it for political gain, which it is kind of hard to believe. We are shocked that some of us up here would make statements for political gain.

Mr. Musick, did you make that comment regarding Mr. Gore? Would you say that that probably would apply to the distinguished President?

Mr. Musick. Mr. Boyd, my predecessor said he was surprised and disturbed by Mr. Bush's actions. I would say that my words would apply equally to both occasions, yes sir.

Mr. Ford. Mr. Chairman, I appreciate the time, but again I think what it boils down to is that the Vice President found out this information a little quicker than other folks and made the announcement, and now we are going to accuse him of politicizing the fact that our kids are reading a little better. I will be continuing to politicize those things and hope

that our kids will continue to read better and add and subtract and multiply and divide a little bit better, too.

I thank you for letting me go over my time, Mr. Chairman. I thank the witnesses for coming.

Chairman Hoekstra. I thank Mr. Ford for his questions. I just add that I can now understand if you believe the Vice President created the Internet, why you also believe his characterization of the test results. Mr. Schaffer

Mr. Ford. Thank you, Mr. Chairman.

Mr. Schaffer. Thank you, Mr. Chairman. I am not sure which panelist is the most appropriate to comment, but NAEP used a time frame in assessing the overall improvement of students from 1992 to 1998. Am I correct in that?

Mr. Musick. Correct.

Mr. Schaffer. I think the bigger issue is not so much whether some politician decided to exploit the results of the data for whatever political advantage may be secured, but how that data was released and under what pretense as well. The time frame used by the Vice President was not the same as yours. Am I correct?

Mr. Musick. The figures were for 1992, 1994 and 1998. I think the Vice President may have focused on 1994 and 1998.

Mr. Schaffer. As opposed to 1992 and 1998. When focusing on the 1994 to 1998, and let me just quote what the President said, he said, "Well, today I am very proud to be able to report to you new evidence that our efforts are beginning to pay off. For the very first time, reading scores have improved for each of the three grades measured by the National Assessment of Educational Progress: 4th grade, 8th grade and 12th grade." And then with emphasis, "This is great progress and we are proud to report it."

In your presentation of the data, however, did you come to the same conclusion?

Mr. Forgione. When I presented the data as I do in each and every case, I go back to the base year and talk first about the base year, 1992 versus 1998, in which there was no change at grade 4 and no change at grade 12 and grade 8 did have change. Then I will take an intermediate period, because in this case there was only one, in which there were gains over the short-term.

We have a quadratic where we lost ground, came back, and that is why it is equal at 4 and 12, but 8th grade was our success. So the Commissioner and the Board presented the full spectrum. The Vice President did focus on that intermediate period.

Mr. Schaffer. Just from the perspective of the value of the NAEP scores and what they tell the American people about the performance of their children, is there some difference just in the intellectually honest application of the findings when considering these time frames? In other words, what would be more honest in your opinion, the 1992 to 1998 comparison, or just the selective portion of 1994 to 1998?

Mr. Forgione. They both have validity, and one would have to put them in context. NAEP is the goal standard. It is done independently and it is done with integrity. That is why it is so important to release them in a way that people can interpret for themselves. That is why the Commissioner, I believe the Chairman said, is Jack Webb. We know the facts only, and let you decide what they mean.

But I don't want to underestimate that, because that is so important. Let's not just get distracted into who struck John, but what is at the heart of this. It is the integrity and the independence of a statistical agency and the perception that that may be a bridge, and no one wants that. So I hope you will address that as you go forward.

Mr. Schaffer. Mr. Chairman, do you need any of my time?

Chairman Hoekstra. I don't need your time, but I will take it.

Mr. Schaffer. I yield my time to the Chairman.

Chairman Hoekstra. I would like to insert for the record the National Assessment Governing Board Policy Statement. I believe this is from 1990. Without objection?

SUBMITTED FOR THE RECORD, POLICY STATEMENT ON REPORTING AND
DISSEMINATION OF NATIONAL ASSESSMENT RESULTS, NATIONAL
ASSESSMENT OF EDUCATIONAL PROGRESS, NATIONAL CENTER FOR
EDUCATION STATISTICS, ATLANTA, GA, NOVEMBER 17, 1990
SEE APPENDIX D

Chairman Hoekstra. I think your intent at the press conference as you talked about the data and your agenda differed. Your proposed agenda differed from the actual agenda in

what way? What did you propose and what actually happened?

Mr. Forgione. The order of the presenters, in accordance with the NAGB policy, is that the Commissioner should release all the data and put the full spectrum out, then allow commentary at some point afterwards, immediately or later. In this case the Governing Board, the Secretary and the teacher would have joined us.

Chairman Hoekstra. So the National Assessment Governing Board policy is the data is presented first, after which there may be time for questions on the data or somebody may offer a policy statement. That is how you jealously guard it. What actually happened at the presentation?

Mr. Musick. At the presentation as has been established, the data was technically released on the Internet at 10 a.m. At 11 a.m. a press conference began with the Secretary introducing an outstanding teacher from Fairfax, Virginia. She introduced the Vice President. The Vice President released, his term, "released" the results. The Vice President left and Commissioner Forgione presented the results, and then I was on the program commenting on those results. Then there was a question and answer period with the press and persons in the audience.

Chairman Hoekstra. So the Vice President gave a rather sterile presentation of these are the numbers. Nothing but the facts? Is that what happened?

Mr. Musick. I think you have heard some of the testimony or some of the results.

Chairman Hoekstra. All right. I will get my 5 minutes again in 5 minutes. Mr. Kind.

Mr. Kind. Thank you, Mr. Chairman. I want to thank the witnesses for coming even under the environment in which you are being asked to testify. I for one just want to echo what our Ranking Member said in regards to this hearing and what the purpose really should be about. That should be figuring out ways that this Committee can work together in a bipartisan fashion to try to improve the state of education in this country.

Quite frankly, I think it is an incredible waste of time to hold a hearing of this nature with this kind of content and to waste staff time for a few days talking about the release of information which to my understanding was published over the Internet for public consumption one hour after it was published, and then try to make some political hay about it.

If the next year and half in this Congress, Mr. Chairman, is going to be nitpicking and criticizing the Vice President of the United States for political purposes, we are in for a very long time, and I fear that we are not going to get much accomplished if anything.

I would think that when it comes to concerns about our children and the education that we are supposed to be providing in this country, that we can rise above this on occasion and keep our eye on the ball rather than wasting a whole lot of people's time.

I mean it is my understanding that after an hour of this information being publicized, the Vice President made some obscure comments in regards to the test results. This is a very fine line between political use and a policy discussion. There is no question about that. But this certainly cannot compare with a sitting President announcing the results of NAEP test scores a day before they are even published at a private school, and then shortly thereafter at a fund-raising event with the Vice President of the United States in attendance. So, let's be realistic about what this is all about.

What concerns me more is the fact that we have got what appears to be at least some manipulation of NAEP test results going on right now. I would like to hear your comments in that regard, because in all honesty, a lot of school districts are making some policy changes in order to accommodate and to include students with disabilities. I would like to know what is being done from your point of view in order to deal with these policy changes so that we don't have a state-by-state potential manipulation of future test scores and we can get some accurate and quantifiable data that are reliable in the future. If anyone would like to comment.

Mr. Forgione. Please, in my statement we do address that issue. I was concerned after the initial release of the state data. People raised the question. The number of identified Special Ed kids has gone up. We can understand that. America is funding more, so you would expect more children to be identified. But is exclusion happening?

We did a study, Mr. Kind, to make sure that we could identify the impact on it. I am pleased to say that despite the look of a large number, we can say to you it is only a modest impact. Only 14 of 36 states that were studied in 1992, 1994, and 1998 had a significant increase in the number of Special Ed kids. Therefore, this problem is a modest one at this point. We do recognize that we have got to be vigilant about it and make sure we put in place procedures that will not allow results to be reported that are not fair.

The answer to the question is there was no manipulation. We administered the tests independently. We picked the schools in every state. We picked the roster of fourth graders and we drew 30. Only at that point could the principal or administrator say Mark and Pat should not be tested because their IEP says so. So that is a fixed document that continues to be manipulated. It is there.

Now, why do different numbers pop up in different states? That is a contextual issue relating to the services and the funding and their priorities. We tried to have a level playing field. Certainly the state over time hopefully would be level.

We are vigilant about this. I can say to you with confidence, these results hold. It did not apply to the Math results released in 1996, but it certainly is an issue that the NAEP and the state governments with their state testing programs need to be vigilant about.

Mr. Kind. In those states where you feel there may have been some exclusion rates affecting test scores, were there any other factors that may have attributed to some of the different test scores in those states?

Mr. Forgione. We only had time to look at this one factor: What impact did the increase in exclusion between 1994 and 1998 that went from 4 percent to 8 percent have on your performance? If you had growth? Would raising the score up impact? We were very harsh. We took out the bottom kids and raised the 1994 scores, and then asked is there still a statistically significant increase or are you still statistically the same? No one went backwards, and 33 of the 36 states showed that they maintained their growth.

So in fact I can say to you with confidence that even this rigorous model didn't have the impact. We are doing some reasonable models, because Special Ed kids are not all at the bottom. Some ADD kids are terrific performers. We will have those studies. Two of the 3 States that did not show significance at this point, may in fact with the reasonable model be able to be certified. But the results will not change. This is a hypothetical study, "what if."

The results are what they are. You could ask the same question if you had more migration or you had more poverty. We take the data in NAEP and report it. The Governing Board does not allow any type of massaging of the data, because people don't view that as the proper approach.

Mr. Kind. Thank you.

Chairman Hoekstra. Thank you. Without objection, I would like to submit for the record a February 18 letter, February 18, 1999, from Chairman Mark Musick to Mr. Forgione, just quoting, "I am writing to express the Board's concern about the recent press conference for release of the 1988 NAEP reading report card. We believe the format, tone and substance of that event was not consistent with the principle of an independent, nonpartisan release of the National Assessment data, an important and longstanding Board policy." That letter was written at the direction of the Executive Committee of the National Assessment Governing Board I and my colleagues here on the panel believe.

SUBMITTED FOR THE RECORD, LETTER FROM MARK D. MUSICK,
CHAIRMAN, NATIONAL ASSESSMENT GOVERNING BOARD, WASHINGTON,

DC TO DR. PASCAL D. FORGIONE, JR, COMMISSIONER OF EDUCATION STATISTICS, WASHINGTON, DC, FEBRUARY 18, 1999 - SEE APPENDIX E

Mr. Roemer. Mr. Chairman, I will not object to your request to enter that into the record, but I would make a request at this time to have unanimous consent to enter into the record right after that letter Mr. Boyd's letter about President Bush's problems in 1992.

Chairman Hoekstra. Absolutely. Without objection.

SUBMITTED FOR THE RECORD, LETTER FROM RICHARD A. BOYD, CHAIRMAN TO MR. EMERSON J. ELLIOTT, ACTING COMMISSIONER, NATIONAL CENTER FOR EDUCATION STATISTICS, WASHINGTON, DC, JUNE 3, 1992 - SEE APPENDIX F

Chairman Hoekstra. What we are trying to establish here is that there is a principle of independent nonpartisan release of National Assessment data, an important and longstanding Board policy.

My colleagues on the other side of the aisle tend to belittle that point and say this is no big deal, but actually in reality it is a big deal and the Board has consistently driven home that point. I am concerned by the inferences that are being made by the other side of the aisle that this is something that isn't very important and we ought to just blow it off because this is a partisan event. You are refusing to characterize this.

Mr. Roemer. Mr. Chairman, I think you are characterizing the witness' testimony today in an inaccurate fashion. I think Mr. Forgione has said that this was not a violation in fact, but it was a perception problem. That is what he says in his testimony.

Chairman Hoekstra. The format, tone, and substance of that event was not consistent with the principles of an independent nonpartisan release of the National Assessment data. Mr. Tancredo.

Mr. Tancredo. Thank you Mr. Chairman. Mr. Forgione, on March 23rd, the L.A. Times quoted you as saying that Gore's presentation of the results "can cloud the confidence people might have in the independence of the data."

Education Week quoted you as saying the following about the Administration. "We have had contentiousness over how to proceed, but I never felt anything that would be out of line. It has only been over the presentation of the research, not the design."

Based on usual testimony and these quotes, it appears you feel strongly the Vice President should not have released the reading results. Can you explain for us a little more about what you mean by contentiousness?

Mr. Forgione. Well, first I will say there is a subtle but important difference here. When I was asked the question, I do believe that the way this was released in a press conference did have the perception of politicizing this event. Therefore, as I said in my opening statement, we have got to have a strong measure of independence, and therefore the Commissioner should have released the data at that event. It doesn't mean because we electronically released it, we do those things simultaneously.

So I felt that this was not an appropriate approach. I believe it was inadvertent, but it is something that we do not wish to have continued. I am pleased the Governing Board has taken action with regard to NAEP that will not allow this in the future. I ask you in your reauthorization to ensure that this independence happens.

At this moment, my Agency is suspect and people in the education community are raising major concerns. If you are going to attract a new Commissioner to this position, you want someone who is going to come in and not be afraid to do what is right. Therefore, the perception is at this moment that this thing didn't go well. I have no evidence, but I just don't like those perceptions. The only way to deal with it is get the boundaries clear and get away from these awkward situations, and that is what I meant to say. I didn't mean to offend anyone. I meant to say what is honestly, as the Chairman has said, is the policy.

Mr. Tancredo. Mr. Chairman, the reason why I am concerned about this, and I do believe that it is appropriate for us to be looking into this today. During the time I spent at the U.S. Department of Education, a little over 11-1/2 years as the Regional Director in Region 8, there was one place that we could go and one organization that we could look to for solid and good answers to questions. There was a general feeling that when you saw NAEP results, there was a reliability factor there perhaps greater than any other. Everything else we dealt with, ITBS all the way down, was fraught, frankly, with problems that did make you question whether or not you could use the information reliably.

NAEP, however, was different. I was always encouraging those states in my region who are not participants in NAEP to become participants because of what I believed to be, as I say, a very good program you can rely upon. So it is extremely disconcerting that anything could happen in this particular program that would cast a shadow of doubt, even the slightest shadow of doubt, on the credibility of the activity of NAEP and of the results. It really is about the only thing we have to rely on in this environment; this arcane and sometimes ethereal world of measurement and assessment.

So I yield back the balance of my time.

Chairman Hoekstra. Mr. Roemer.

Mr. Roemer. Thank you, Mr. Chairman. Mr. Chairman I just want to get on the record that I have some concerns what has been conveyed in the last couple of statements regarding what Mr. Forgione has said in his testimony. He has said the Commissioner must release all education data for the agency. This is a quote from his testimony on page 4. This can take the form of publication, a data file or an electronic release. The fact of the matter is it was electronically released an hour before the press conference.

Then Mr. Forgione goes on to say on page 5, that the Commissioner electronically released the national NAEP data on the NCES web site at 10 a.m. that morning. However, there may be a subtle perception problem, which now Mr. Musick and Mr. Forgione have clarified internally.

Mr. Musick, could you read for me your new rule that you published 2 weeks ago to make sure this doesn't happen again?

Mr. Musick. I think I can, sir. I think reading the relevant parts of it are really what you want to hear. One second please.

In revising the NAEP release policy earlier this month, the Board added new language which underlines our previous position. It reads: The initial release of NAEP data shall be independent and apolitical, separated clearly from other programs and policies of the Department of Education.

It also adds that the official press statement or release announcing NAEP results shall be issued by the National Center for Education Statistics rather than by any other department in the Department of Education.

Mr. Roemer. This is a result, Mr. Musick, of the perception problem that the Vice President inadvertently, and that is a quote from Mr. Forgione, inadvertently created even though the data was out on the web an hour ahead of time. Now a political person according to the guidelines can no longer be part of an announcement, and that is a result of this social faux pas by the Vice President and former President Bush's violation. Is that correct?

Mr. Musick. This is the Board's effort to make sure that...

Mr. Roemer. ...to clarify...

Mr. Musick. ...to clarify...

Mr. Roemer. Thank you, Mr. Musick, because you have addressed this. This seems to me to be a Committee in search of a perception problem. We just had the Chairman begin to criticize the Vice President's speaking style. He said his presentation before Mr. Forgione was sterile or his presentation. Is that our next Hearing? Are we going to start to have Hearings on the Vice President's speaking style and presentation?

I mean, come on. We have better things to do with our time, with staff time, with this Committee. We have now, and this is not something I am making up, in Roll Call people saying that there are teams of Republicans that are going to read from the Vice President's book on the House floor, and that people are going to magnify every statement he makes.

We wouldn't be here today if the Vice President was not in the running for President. If he was a Vice President simply performing his Vice Presidential duties and he had done this, we probably would not be here today. But because he is a candidate for President on the Democratic side we are here. We are having a long Hearing, you have addressed it internally, and what I worry about is that the GOP is going to turn...

Chairman Hoekstra. Excuse me, Mr. Roemer.

Mr. Roemer. It is my time, Mr. Chairman.

Chairman Hoekstra. I believe that you are characterizing my behavior and my motivation.

Mr. Roemer. No, I am not. I just quoted you about what you said about the Vice President's speech.

Chairman Hoekstra. Yes, you are. You characterized this..

Mr. Roemer. It is my time, Mr. Chairman.

Chairman Hoekstra. You characterized this Hearing...

Mr. Ford. Mr. Chairman, the Ranking Member deserves his time.

Mr. Roemer. It is my time. I would be happy to yield.

Chairman Hoekstra. This is a matter of personal privilege.

Mr. Roemer. I will be happy to yield to you when I finish my statement.

Chairman Hoekstra. This is a note of personal privilege. I believe you are characterizing my motivation.

Mr. Roemer. No, I am not. I would not characterize your motivation.

Mr. Ford. I would.

Mr. Roemer. I am quoting you and what you said in your statement about the Vice President's speaking style and I am quoting you in what has been in publications across this City, going after the Vice President. And we have now had a 2 hour Hearing. We have had Mr. Musick and Mr. Forgione tell us that they have cleared this thing up, and we have had Mr. Forgione say that this is an inadvertent perception problem.

Chairman Hoekstra. The gentleman's time has expired.

Mr. Roemer. I would be happy to yield to the Chairman.

Chairman Hoekstra. Let's keep going here. Dr. Forgione, you have not been reappointed to the Board is that correct? Excuse me, as Commissioner.

Mr. Forgione. I made a decision to withdraw my nomination last Monday.

Chairman Hoekstra. Can you give me a little background as to how you reached that decision?

Mr. Forgione. I was informed by the White House that because I have made a mistake in the fact that I deliberately overpay my taxes each year. On April 15th, I let the IRS know that I am getting a refund, but I did not finish my taxes asking for the refund by August 15th. Each year I got a refund, I never got sanctioned by the IRS, never got

penalized. But they feel that this is a mistake that in their minds and it precludes me from being eligible for reappointment.

The Secretary tried to intervene. He wasn't successful. So I decided at this point my term is up on June 21st, that I should just proceed onward.

Chairman Hoekstra. In characterization of this little social faux pas by the Vice President, did you have discussions or e-mails, or your staff back and forth with the Vice President as to exactly what was going on and how the process should work?

Mr. Forgione. I had a conference call on Monday, February 8th, in which the Secretary's office, my office, and the Vice President's office talked about his intention to join us which we welcomed. At that point when I left the meeting I thought it was going to be at 10 o'clock as we had previously decided that I would present, Mr. Musick would follow, and then they would join us and have the kind of activities that would follow.

When I left that meeting it was my understanding that was going to happen. I was subsequently informed by one of my staff members the next morning that it would be different, and I had no idea that the Vice President would come and release the data at that point. I was not aware of what was going to happen. I had no conversations and no e-mails with the Vice President's office from that Monday to this day.

Chairman Hoekstra. Did you clearly outline to them what the policy statements were? Did they have a thorough understanding of what those policy statements were as to how data should be released?

Mr. Forgione. I always try to advocate for the importance of the perception and fact of integrity and independence. The Department has always supported the Commissioner having that prerogative to release. If there are circumstances where it can't be done, then we can try to accommodate it. But when we have a press conference, I have always gone first, with the Governing Board and others later. This was as I said, just a departure from that procedure.

Chairman Hoekstra. Were you led to believe that you would be reappointed as Commissioner?

Mr. Forgione. Obviously, as I entered the last year of my term. It is a fixed 4-year term, and I was appointed in June of 1996. In January, the indication was that if I met the standards of the FBI check and the other types of scrutiny that I would be.

Fourteen weeks into it on April 14th, I received this call. I was shocked by it, but I accept the fact that the President can appoint anyone that he deems appropriate, and I

take them at their word what the reason is. I am proud that the Department advocated, but it wasn't successful.

Chairman Hoekstra. Mr. Musick, do you provide any feedback to Dr. Forgione as to his performance as Commissioner?

Mr. Musick. Not formally, no.

Chairman Hoekstra. What has Mr. Forgione's performance been?

Mr. Musick. Working with the Commissioner through the NAEP program which of course is what I am most familiar with. Pat's open style and the way he worked with us on the redesign of the National Assessment has been to tell us what he is thinking about, to share information with us and to let us respond to drafts. It is a very open style and one for which I think the Board Members would give him high marks.

Mr. Roemer. Mr. Chairman, you certainly don't have to yield to me, and I doubt if you will, but can I ask a question? Has this Hearing now gone from the NAEP test to whether or not the administration has the ability to reappoint political appointees?

Chairman Hoekstra. The issue has moved from one of whether the administration politicized an event which is unacceptable, whether Bush does it or whether this Vice President does it, because the key to this being a successful organization is that they be independent. And I believe earlier today Mr. Forgione indicated that there was some question or some cloud over this organization based on what had happened in February.

And I am now concerned that as Mr. Forgione has articulately and actively fought for maintaining the independence of that Agency and has done a good job, that perhaps by challenging and doing his job for maintaining the independence of that agency, may have lost the opportunity to be reappointed to this job.

Mr. Roemer. Would the gentleman further yield? I think we have to be very careful now, Mr. Chairman, to go forward in a Hearing, public Hearing, to talk about the personnel practices of Mr. Forgione and start getting into tax returns and a host of different things. I don't think this is fair to him. I don't think it is fair to him to evaluate his performance which I am sure has probably, from what I can see, been good. But we are not equipped to start having a public Hearing on this gentleman's performance in front of the press and the public and everybody else. I don't think it is fair to him.

Chairman Hoekstra. Thank you. Mr. Ford.

Mr. Ford. Sure. I think so much has been said, and pretty much everything has been said. The Chairman was questioning whether or not Mr. Roemer was questioning his motives, and I would say that you just questioned the Administration's motives and what action might have been taken with Mr. Forgione.

I don't like questioning anyone's motives, but when you leave yourself open for those kinds of questions you have to be prepared to answer them. Perhaps the Administration will have to answer this question. I think Mr. Chairman questioning the Vice President the way you have questioned him and the Vice President's office certainly can lead one to suggest or one to reach the reasonable conclusion. I am fascinated by the legal terminology being used on the other side, "the intent." We are acting as if the man broke some sort of law by announcing what he read across the Internet.

I would only ask Mr. Forgione and Mr. Musick, if you wanted to make this announcement yourself? I understand why you would want to make the announcement. I say I represent the City and I have two other colleagues that represent it with me, and I can tell you when good news comes our way we are all rushing to announce the news. But if I release it across my web page and then hold a press conference to announce it, I can't act like I am dumbfounded when my colleague announces it ahead of me.

Mr. Musick if you were so opposed, I think I quoted you correctly. You sort of got sidetracked a bit when you said in your letter, the format, tone and substance of that event was not consistent with the principles of an independent, nonpartisan release of National Assessment data. Those are your words, and I imagine you would link it to Mr. Bush's comments as well as the question I was getting at. You pushed it off on Mr. Boyd but that is what you said.

Why then did you participate in an event that you thought was so partisan or violated the principle or was not consistent with the principle of this independent, nonpartisan release of the National Assessment data? Because if my memory serves me, you said you participated along with this Fairfax teacher, the student and Vice President. Again, if this violated the principles of the Board why would you voluntarily participate?

Mr. Musick. Yes, sir. As you heard Commissioner Forgione say, the involvement or the change in the Board's plan took place over a 48 to 72 hour period. We were told there might be some change, that a teacher would be involved, the Vice President's office called and might be involved. That was on a Friday.

On a Monday we were told it is looking more like it. When I arrived that morning, I did not know the order of the presentations.

If you will also look at my letter Congressman, you will see in the next sentence I said to Mr. Forgione, "You and I discussed this problem immediately after the release on February 10th." We were standing on the stage or just off the stage. So I didn't know

going into that morning how the event was to unfold.

Mr. Ford. Would you have felt better had you been able to make the announcement and not the Vice President?

Mr. Musick. I would have felt okay only if the Commissioner had made the announcement.

Mr. Forgione. If I could comment, Mr. Ford. I guess an analogy I would like to ask you to think about is this: Would you be comfortable with the President releasing the unemployment statistics each month? Certainly the highest office in the Nation you want to give honor to. The question is, when you have important indicators that are so vital and so important to public policy you want to insulate that as I said in the statistical document.

Mr. Ford. I don't mean to interrupt. I know Mr. Roemer wants to say something, but let me ask you one last question. Do you think the Vice President manipulated the results? Do you think he somehow or other was able to penetrate your network or system and rig these results to show this? Because I am curious. I don't quite get it. Maybe it is me. You put them out an hour beforehand. The results showed improvement and showed progress. Are we somehow suggesting that the integrity of this process, the independence of the Board, has somehow been threatened. You released it across the Internet, not the Vice President. The Vice President, or me, or whomever, I must tell you if you were to do it again before you announced it, I would make the announcement. I don't understand what the big deal is, Mr. Chairman.

Mr. Forgione. We won't give you access to the data.

Mr. Ford. Hold on one second, Mr. Forgione. I don't understand what the big deal is. I have got to think if Mr. Goodling or you had access to it, you might have made the announcement.

To call these two fellows here, to depart from what we were talking about as Mr. Roemer said, to talk about this guy's tax returns. Mr. Forgione seems like a great guy. I don't know all the facts, but I would be happy to appeal on your behalf with the Administration if needs be, because you seem like an upstanding and honest sort of a "shoot-straight" kind of guy.

But I don't understand why we are so offended here. The Vice President didn't manipulate the results. He didn't go into your systems and figure out how to say, "Fourth and eighth graders are reading better. I have got to do this so my campaign or the Administration looks better."

All he did was announce results that you all put together and released an hour before his press conference. Mr. Musick goes to the press conference, participates and then gets offended when he can't go first or you are not there to release the results before the Vice President inadvertently does, after you had already done it on the Internet.

When someone questions your motivations Mr. Hoekstra, it is because of this. Believe me, if there was something the Vice President had done wrong, I would be the first to say. But I don't see what he did wrong here, other than go on the Internet, find the results, call a press conference, invite the Board, and make the announcement.

Perhaps it is me, but I can tell you if you do it again and I see it before you guys do it, you may have to hold a Hearing on me because I will make the announcement as quickly as the Vice President did. With that, I yield to Mr. Roemer whom I know wanted to ask a question as well.

Chairman Hoekstra. Mr. Castle. Are you ready?

Mr. Castle. No, sir.

Chairman Hoekstra. Mr. Schaffer.

Mr. Schaffer. Thank you, Mr. Chairman. Any charge made that the Vice President manipulated the data is not unfounded, given the comments that you made a little bit earlier. It is all in the presentation of the data and the statistics.

There is the phrase. I can't remember how it goes, but basically there are lies, statistics, or something?

Mr. Forgione. Lies, big lies, and then there is statistics.

Mr. Schaffer. There are lies, big lies, and then there is statistics. That may apply here as well. Because what the Vice President referred to was really a subset of the overall statistical data, with total ignorance of the statistical baseline to suggest whether student scores actually indicate any kind of improvement at all. Again, the baseline used by NAEP is 1992 to 1998, am I correct in that?

Mr. Forgione. Yes.

Mr. Schaffer. The Vice President used the time frame from 1994 to 1998. So is it fair for me to say that the President told the truth?

Mr. Forgione. They certainly presented half of the truth.

Mr. Schaffer. But he didn't tell the truth, right?

Mr. Forgione. Not the whole truth.

Mr. Schaffer. This is my next comment. It is fair to say the President didn't tell the whole truth.

Mr. Roemer. Are we talking about President Bush or Vice President Gore? You keep referring to him as the President.

Mr. Schaffer. Excuse me. When I talk about not telling the whole truth, it is hard to keep track of which one I am talking about in that case. The Vice President is what I am referring to in this case. It is accurate to say the Vice President did not tell the whole truth with respect to disclosing NAEP's data.

Mr. Forgione. I prefer to say the Vice President presented part of the data and the Commissioner later presented all parts of the data. I would say that is not trivial and that is why we want the Commissioner to go first, because America has to believe the data. What he did was not inappropriate, if in fact all of the information had gotten out. When the Vice President leaves, a lot of the press leaves with him.

Mr. Schaffer. I would agree with you that this is not trivial.

Let me ask, Mr. Musick, why do you suppose you were invited to be at this event? This announcement where this information was disclosed and the Vice President shows up, and you said the teacher was there. What do you suppose your purpose was there and why you were invited?

Mr. Musick. I was there as Chairman of the Board. The event was as you have heard, and the plan was approved weeks in advance. That is how we do it.

Mr. Schaffer. Let me stop you there. Were any other Members of the Board invited to participate in the role you were invited to participate in?

Mr. Musick. Normally we only have one Member from the Board. We rotate and try to give different Board members a chance.

Mr. Schaffer. Having a Board Member there in your opinion would serve what useful purpose?

Mr. Musick. The Commissioner presents the facts and normally the Board Member most closely affiliated with the facts makes the first comment.

Mr. Schaffer. Do you believe the credibility of the Board is predicated on the nonpartisan nature of board members and the Charter of the Board?

Mr. Musick. You think the Board is nonpartisan. We have elected officials on the Board, but I would argue the Board operates in a nonpartisan way.

Mr. Schaffer. So the nonpartisan credibility that the Board maintains, do you believe that level of credibility has some useful purpose in presenting the data, the numbers and so on?

Mr. Musick. The nonpartisan Board sets the policy for NAEP and the Commissioner implements it. So they both have to be nonpolitical; nonpartisan.

Mr. Schaffer. The Vice President, prior to announcing the half truth, went through and said a number of things. I am quoting. "We have worked hard, very hard, to help states and communities raise academic standards, invest in teacher training, and marshal the effects of thousands of young people through the AmeriCorp program and also an expanded work-study program. And for all of these reasons, under the leadership of President Clinton, education in America is America's top priority. Well, today I am very proud to be able to report to you the new evidence that our efforts are beginning to pay off," and so on.

So there is the Vice President making the claim that his bureaucracy and his programs and so on have resulted in an increase in scores about which we should all be excited, and they invite you to stand next to him as a credible member of a nonpartisan Board.

Let me just ask: Is this why you are uncomfortable? Do you think that this whole scenario suggests an effort to politicize the data?

Mr. Musick. This whole scenario? I think this event was an unfortunate deviation from our Board policy. I do not believe that the National Assessment's credibility today is

terribly impugned. I think this was one event. We had one other event we talked about.

Mr. Schaffer. Do you think the Vice President took advantage of your credibility in attaching your statistics to his programs?

Mr. Musick. I would not, and I could not answer that question.

Chairman Hoekstra. The gentleman's time has expired. We are going to yield to Mr. Roemer for a question. By unanimous consent, I believe unanimous consent, we are going to allow Mr. Castle to ask some questions and then we will end the Hearing. We have another vote coming up.

Mr. Roemer. Mr. Musick, just so I understand where we have gone in the last 2 hours and 10 minutes. If the teacher from Fairfax, what is her name?

Mr. Musick. Emily Parker, I believe.

Mr. Roemer. Emily Parker. If Emily Parker had introduced Mr. Forgione first to announce the statistics and then Vice President Gore had followed Mr. Forgione, would we have had a perfectly okay perception of this event then?

Mr. Musick. I think that if that had been the plan put before the Board and approved, and had been followed in that way, we probably would have. The comments that were made were interpretive comments by the Vice President, and we have held to present the data, and not comment on it. So probably so.

Mr. Roemer. Thank you.

Chairman Hoekstra. That is a recess. We have all the time in the world now. Mr. Castle.

Mr. Castle. Thank you Mr. Chairman, for yielding me all the time in the world. I can use it for all these questions.

A couple of statements: I believe this Hearing is worthwhile for an entirely different reason. I believe that the process of testing is overwhelmingly important and the equity and fairness of testing is of overwhelming importance.

We are going to be reauthorizing NAEP and NAGB. That is never easy. We have been through it before, and for that reason I think it is important that we straighten even some of these things out.

I think you all know my feelings about this. I think when you give these tests and you say they are statewide results, or you break it down by state, then doggone it, it ought to be fair in terms of the balance of those with learning disabilities, as well as those who are good students in private schools, or whatever it may be. If that is the claim, let's make sure it is happening. I know it is complex.

That much I learned when I was on the Board. I never did understand it all, but I know it is complex. I just beg and beseech you all to do it. I know some of your good staff are behind you in that, too.

Secondly, I hope Dr. Forgione in the case of you not being reappointed, that it was for valid reasons. Frankly, I have heard this tax business. That doesn't seem particularly overwhelming to me in light of some other appointments and reappointments in this and other Administrations in fairness. I will just let it go at that. I just hope it was not for political reasons. I am not stating it was. I hope it didn't work out that way.

I am going to ask you a question, Mr. Musick. I didn't start on this whole political kick, but I have become concerned. I understand there is a memo or something that shows that the Vice President was not to be the person to lead this off.

Maybe you answered these questions when I was doing an announcement on teachers at a press conference, but at what point was a decision made and who made the decision to allow the Vice President to be first? I don't think he should have been anywhere near it. I don't think President Bush should have done what he did years ago. I don't think any politician should be anywhere near an announcement like this.

My question is, how did this happen? Does this impact the integrity of NAGB in some way or another, in terms of how you all operated that particular day? I understood that afternoon before he was not to be first. Somehow the order got changed.

Mr. Musick. I think Commissioner Forgione did not have any direct comment. I have said to Congressman Ford that I walked in the room that morning and found things not exactly as I had anticipated.

Mr. Castle. You weren't involved in that?

Mr. Musick. There were conversations over a 48-hour period. We were told the Vice President would be involved, likely he would be involved, or the Vice President is going

to be involved. And the Board, as Mr. Roemer raised a moment ago regarding the Vice President's involvement at that time in an appropriate way, viewed it as bringing more attention to this.

I think the question you raised a moment ago Mr. Castle, is a good one. Maybe we need to ask the question: Can elected officials at that level be involved without it skewing the process?

Mr. Castle. The answer is no.

Mr. Musick. The Board has not taken that up.

Mr. Castle. Why did Emily Parker introduce the Vice President? Who told her to have it happen that way? How did that person come to that decision? Does anyone know? Did anyone ask her? Do any of you know how? Have you asked the question how it came that he did go first? Obviously that is in real contradiction to your own rules and regulations that that would happen. I would hope that somebody has raised the question. I would like to know the answer of how this came to happen that the Vice President was the one that started this off.

Mr. Musick. There were also questions about time. Commissioner Forgione mentioned originally it was going to be 10 o'clock, then 10:30 or 11 and then back to 10. I assumed when I was hearing that, that different persons' schedules were affecting this. I assumed that this was a Departmental decision, but the Commissioner, again, I had no...

Mr. Castle. Dr. Forgione, you don't know either?

Mr. Forgione. After I left the meeting on Monday, when I thought we were going to go at 10 and they were going to come in at 11, I have no knowledge of who made the decision and why. We were just informed of it.

Mr. Castle. It could have been made at a Departmental level, at a higher level within the Department. Wouldn't they have to communicate it to one of you?

Mr. Forgione. They communicated the fact and we prepared the agenda.

Mr. Castle. Somebody communicated to you the fact that the Vice President would go first?

Mr. Forgione. My press person got called and told this will be the order of the sequence.

Mr. Castle. It was the Department of Education that made the decision that the Vice President would go first, or at least they communicated that to you?

Mr. Forgione. Yes.

Mr. Castle. We can only assume how it got to them. Okay. I have no further questions.

I will just reiterate what I said. I think it has been a problem. I think we really need to address it. Hopefully this incident will eliminate the politics of it and you can concentrate on the job you are doing. You do your job well, but this is a little bit of a mark against it.

I yield back, Mr. Chairman.

Mr. Forgione. Mr. Chairman, Mr. Schaffer, I believe I misspoke a few minutes ago, characterizing what the Vice President said as a half truth. I think it is an interpretation of the data which would be legitimate in a context. It did happen. But the context has to be correct for it to be there. So I think I misspoke on that.

Mr. Schaffer. Was the context correct?

Mr. Forgione. I think there was a fuller context.

Mr. Schaffer. But was the context correct in the case of the Vice President's presentation?

Mr. Forgione. The Governing Board has determined in its letter that this practice should not happen.

Chairman Hoekstra. Mr. Ford, I believe, has a question.

Mr. Ford. Let me just say two things. One, I have enormous respect for Governor Castle. I am a little surprised that he would sort of take the line of questioning that he did. But in fairness to the Governor and the fact I know the Scheduler and Director of Protocol at the White House for the Vice President, perhaps we can subpoena them or have them come before the Committee to have them answer all of these questions fully and get to the bottom of what is emerging as a huge scandal as to how decisions are made

at the White House and in the Vice President's office with regard to who speaks first and who speaks last.

I will say that the next time anyone from NAEP goes over, and I have a few friends over in the Office and perhaps we could have saved time and resources here today, I will assure you that never again will the NAEP be slighted at the White House or any event the Vice President is participating in. I feel confident saying any event you participate in with this Committee never again will you be slighted. I hate to sound petty, but it sounds as if that is where we are going and where we have been going for some hours now, and I am contributing to this by prolonging this.

My question was not answered because I did so much talking last time. Do you think the Vice President manipulated the data, either one of you however he interpreted it? Forget the interpretations for a moment. We have some data here that the Board wanted to release and, in fairness to the Board, should have spoken first. But since you didn't, do you think that the source of the misinterpretation was the data that the Vice President interpreted? Do you believe that he had anything to do with producing or generating those results or those numbers, or the actual data that the Board was able to collect? Mr. Musick?

Mr. Musick. You have a two-part question.

Mr. Ford. No, it is one part. Do you think he manipulated the data?

Mr. Musick. One, I do not. This is the reading report on the desk here. There is no way anyone could have presented all the data.

Mr. Ford. Do you think he had anything to do with manipulating, putting together the data, or collecting the data?

Mr. Musick. No.

Mr. Ford. Mr. Forgione, do you think the Vice President had anything to do with the big book you just raised there?

Mr. Forgione. Absolutely not.

Mr. Ford. Okay. Now, we talk about politicizing. The politicizing we are talking about he put, for lack of a better word, his spin on the report that you guys released. Now I can assure you, you are going to get 435 different spins here. You are going to get the number of Members on this Committee to spin, which we do all the time. Why are we

acting surprised that the Vice President might have a different perspective on these numbers than Mr. Hoekstra or myself, or Mr. Roemer or Mr. Castle? It is a little bit surprising.

Are you surprised that maybe two different people, particularly folks who have different political philosophies, might interpret that data differently?

Mr. Forgione. No, I am not surprised.

Mr. Ford. Are you surprised, Mr. Musick?

Mr. Musick. No.

Mr. Ford. Do you guys find yourselves interpreting things differently in your office, the times you are able to interact on issues?

Mr. Forgione. We don't interpret.

Mr. Ford. Do you disagree ever, you and Mr. Musick?

Mr. Forgione. Seriously, we give you the trusted data and allow you to make it. The Governing Board can interpret. It is not a function of a statistical agency to make those judgments.

Mr. Ford. So in light of what you have just said, if you were able to have spoken first at this event which we are so concerned about, and I do hope that someone is trying to find out the name of the Protocol Director and the Scheduler to make sure we don't have this problem again with the White House, what is it that you would have said differently? Since you can't interpret the data, how would you have presented the data any differently than the Vice President?

Mr. Forgione. I would have presented you the full set of data. Again, I give you the analogue: Would you be comfortable with a political official releasing the unemployment rate or the Consumer Price Index? That release is important. It goes to integrity and independence. It may just be a procedural activity, but it is much more than that. You created a statistical agency because you want...

Mr. Ford. Why did you put it out on the Internet?

Mr. Forgione. The Vice President didn't get this on the Internet.

Mr. Ford. He could have conceivably gotten it across the Internet, because you put it out. You released it electronically.

Mr. Forgione. This was the event the press was coming to, and education groups trying to see have our children made progress? A very important social indicator. That has to go out completely and carefully.

Mr. Ford. Did you put it out electronically completely?

Mr. Forgione. Absolutely. The whole document. But it is not easy to get the message out of this big document that you can get from a clear statement by someone. Don't underestimate your power and the power of officials. That is the organization. I believe the Governing Board has solved this for NAEP and I hope you will solve it for the rest of NCES.

Mr. Ford. Thank you. I would say to my friend Mr. Hoekstra, thank you for 2-1/2 hours. I hope we get the same amount of time to deal with Conyers, Georgia and hope we get the same amount of time with a reasonable discussion with Juvenile Justice here in this Congress very soon.

Mr. Castle. Would the gentleman yield, in fairness, Harold?

Mr. Ford. Absolutely, Mr. Castle.

Mr. Castle. Because now you are getting into areas that concern me, because we have had substantial Hearings and Markups of Juvenile Justice and on the issues of violence. I don't want to give anyone the impression that this is the only thing we are focusing on.

Mr. Ford. Mr. Castle, you know as well as I do sir, that we have not been able to bring it to the Floor because your leadership has not agreed to bring it to the Floor.

Mr. Castle. I do know that. I am just suggesting probably too much time has been applied to it. I would love to get it to the Floor. So would you, probably.

Mr. Ford. We have had one Hearing sir, to my recollection, where we invited the young people to come in and give us their thoughts and ideas on this issue. I would hope that that would not be only one, because I think you and I agree on the severity and gravity of

this problem.

Mr. Castle. There were three Hearings on that by the way, not one Hearing.

Mr. Ford. We have lost more children in school hallways and cafeterias and school yards in the last 60 days than we have in the entire Balkan conflict, Mr. Castle, Governor. I would hope that three Hearings, as many Hearings as Mr. Burton had to get to the bottom of the campaign finance mess, as many Hearings as we had to get to the bottom of the Teamsters mess. I think we owe it to our children to have a few more Hearings on this issue, and perhaps to urge the Leadership on both sides to rush this matter to the Floor, to allow discussion on these and other germane issues as it relates to children.

The Vice President has been discussed fully today. Hopefully our children will have an opportunity to be heard in the coming weeks. With that, I yield back.

Chairman Hoekstra. You yield back your time, great. Do you have a closing comment Mr. Roemer?

Mr. Roemer. Do I have a closing comment? Yes. I would just say, Mr. Chairman, that first of all Mr. Castle and I have worked on a host of things together in a bipartisan way passing the education flexibility bill. You and I have worked together in a host of different ways. We have done a Hearing in Chicago on Public School Reform and the successes in public school reform. We are cooperating together on the Prison Industry Reform, and I would hope that those efforts would not only continue but be a priority in this Congress. I hope that we would continue to have field Hearings in places like Paducah and Pearl and Jonesboro and see what these communities have done in light of the terrible violence that has taken place in those communities so that we can visit with sensitivity, with bold ideas, with ideas for parents to get more involved, with ideas for school discipline, and with ideas for media violence.

And, yes, maybe guns are a part of it. Maybe gun safety for children is part of the solution. Guns wouldn't be in my top 3 of 4, but it would be something that I hope we address soon in the United States Congress.

I don't think that we can have a more important thing to address in this Nation with the oversight of this important Committee that has the ability to go in and see under your Leadership a host of different things on oversight and investigations: school safety, school violence, how we use the bully pulpit to try to keep our families together. We can't legislate that. How we try to maybe embarrass our media companies into doing less of the video games that are so destructive for some of the young people. We probably can't legislate that with the first amendment.

If we could spend a day on the House Floor on an emergency supplemental for our troops overseas, I think we can spend weeks and months on what is the most important thing in the country right now to the business community, to the unions, to the people, to the farmers, that we need to address public education reform and school safety.

We now have the confluence of two issues coming together in this country: Bold public school reform and school safety. Gallop polls across the country are seeing 10 and 15 and 20 percent increases in the amount of concern expressed by parents that they don't feel that their kids are safe in American schools anymore.

It seems to me that that is the most important issue we can face in this country, along with public school reform. I would hope that under your Leadership and Mr. Castle's leadership, people that we have worked with before on these issues, that we will get to those issues as quickly and thoroughly and for as long as it takes to address in bipartisan and substantive and thorough ways, some answers to these very deep and difficult questions that the American people are asking us. There is nothing more important right now.

I would thank you for your indulgence with that statement.

Chairman Hoekstra. Thank you.

Mr. Forgione, Mr. Musick, thank you very much for being here. I can tell you that Mr. Castle and I and this Subcommittee, at least on its Majority side, applaud your efforts and your vigilance recognizing that your credibility and the credibility of the data that you provide is only as good as the perception that you are working independently in providing us data that reflects that independence. I am sorry for some of the inferences today that maybe that independence is not necessarily all that important, or that this data can be used and can be politicized. As we go through and Mr. Castle goes through the reauthorization of these programs next year, you can be sure that we will probably institutionalize and legislate a greater degree of independence. We will take a look at some of the other data-gathering agencies of the Federal Government and see how they are protected.

So rather than moving in a direction that potentially politicizes these events in the future, we give you a greater degree of independence to do the job as you best see fit. That is the direction. That is the commitment that I will make to you and I believe we will see in the legislation that Mr. Castle will shepherd through his Subcommittee and through the Committee and through the House.

Thank you very much for being here today. There may be some questions yet which we haven't had time to ask. I would like to submit those questions in writing so that we can insert your responses as part of the record. Without objection, so ordered.

SUBMITTED FOR THE RECORD, LETTERS FROM CHARIMAN PETE HOEKSTRA, SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS, COMMITTEE ON EDUCATION AND THE WORKFORCE TO DR. PASCAL D. FORGIONE, JR, COMMISSIONER, NATIONAL CENTER FOR EDUCATION STATISTICS, WASHINGTON, DC AND MR. MARK D. MUSICK, CHAIRMAN, NATIONAL ASSESSMENT GOVERNING BOARD, WASHINGTON, DC, JUNE 2, 1999 WITH RESPONSES FROM EACH DATED RESPECTIVELY JUNE 14, 1999 AND JUNE 9, 1999 – SEE APPENDIX G

Chairman Hoekstra. The Subcommittee will be adjourned.

Whereupon, at 12 noon, the Subcommittee was adjourned.

**APPENDIX A - OPENING STATEMENT OF CHAIRMAN PETE HOEKSTRA,
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS, COMMITTEE ON
EDUCATION AND THE WORKFORCE**

MAJORITY MEMBERS
PETER HOEKSTRA, Michigan, Chairman
CHARLES NORMAN, Georgia, Vice Chairman
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BOB SCHUPPER, Colorado
THOMAS G. TANCREDO, Colorado
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RON KAD, Wisconsin
HAROLD E. FORD, Jr., Tennessee

MAJORITY-282 228-4
(TTY)-282 228-3
MINORITY-282 228-4
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SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS
COMMITTEE ON EDUCATION AND THE WORKFORCE
U.S. HOUSE OF REPRESENTATIVES
2181 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6100

Opening Statement
CONGRESSMAN PETER HOEKSTRA
Chairman, Subcommittee on Oversight and Investigations

*Review and Oversight of the 1998 Reading Results of the National Assessment of
Educational Progress (NAEP) - the Nation's Report Card*

May 27, 1999

We are here today to address the politicization of the National Assessment of Educational Progress and the trustworthiness of the scores that states received during the last reading assessment. As the Nation's Report Card, the National Assessment of Educational Progress, or NAEP, is an ongoing, Congressionally-authorized program that collects data through surveys on the educational performance of students in America's elementary and secondary schools. The National Assessment is carried out by the Commissioner of Education Statistics under the policy guidance of the National Assessment Governing Board, or NAGB. The Board was created in 1988 upon the recommendation of the Alexander-James Commission, which urged that policy making for the National Assessment be buffered from manipulation by any individual, level of government, or special interest within the field of education.

In 1990, NAGB adopted its "Policy Statement on Reporting and Dissemination of National Assessment Results." This policy statement was - and in my opinion still is - straightforward and unambiguous. Specifically it states that the "reporting and dissemination of National Assessment results shall be insulated from partisan political considerations and processes." In addition, the "public reporting and release procedures for NAEP shall be apolitical, similar to those of other Congressionally-mandated data-gathering programs." This policy is necessary to ensure that the results, and indeed the entire testing process, is based on independent judgements that are free from inappropriate influences and special interests.

On November 6, 1998, the National Center for Education Statistics submitted its "release plan" for the 1998 NAEP reading test. The release plan stated that the press conference would take place in early February 1999 and would begin with introductions and data presentation by Commissioner Forgive, followed by comments from Secretary Riley and a member of NAGB. This release plan was consistent with Board policy that stipulates that

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"reports of NAEP results shall be issued by the Commissioner of Education Statistics." It was approved unanimously by NAGB on November 21, 1998.

On February 10, 1999, Vice President Gore was the featured speaker for the release of the 1998 NAEP reading results, the first time any official higher than the Secretary of Education has participated in a NAEP release. The Vice President commented on several Administration initiatives during the release including: increased funding for Even Start and Head Start, connecting every classroom to the Internet, funds for schools construction bonds, 100,000 new teachers, and AmeriCorps. The point is not whether I am for or against the programs the Vice President was talking about - it's whether or not his speech was "insulated from partisan political considerations" as the NAGB policy stipulates it must be. In addition, it seems as if the Vice President wasn't telling the whole story about the test scores. He noted that for the "very first time, reading scores have improved for each of the three grades measured by the National Assessment of Educational Progress" and that "this is great progress and we're proud to report it." What the Vice President did not mention was the fact that 4th grade Achievement Levels showed "no statistically significant change," 4th grade Scale Scores were "constant," and analysis from 1992 to 1998 in the "12th grade shows no net gain over the period."

During the press conference, the Vice President made quotes about "a down payment on hiring 100,000 new teachers to reduce class size..." He noted that the Administration has "worked very hard to help states and communities...marshal the efforts of thousands of young people through the AmeriCorps program..." He even encouraged Congress to "enact the President's agenda to improve education..." The Vice President's participation was not an apolitical release of education data, but rather it seems as if this was an orchestrated media event to promote a political agenda. E-mails from the Office of the Vice President described the event as a "VP education event" that was "good for the VP, for the Department, and for education." The Secretary's office made suggestions about what programs to mention, such as the Reading Excellence Act - stating "*It's a reading day, why not push for reading dollars?*"

According to Mr. Musick - a witness before the Subcommittee today - "the format, tone, and substance of that event was not consistent with the principle of an independent, non-partisan release of National Assessment data." Indeed, *Education Week* reported last March that "Vice President Al Gore jeopardized the integrity of the tests when he announced [the] 1998 reading results to a campaign-style rally..." The Vice President's appearance - as the featured speaker before the Commissioner - differed considerably from the NCES release plan the was adopted by NAGB.

Chairman Goodling expressed his disappointment because of the politicization of the announcement in a letter sent to Secretary Riley on March 17, 1999. In his response, the Secretary claimed that Chairman Goodling's "concerns about the release of this data are unwarranted." With all due respect to the Secretary, I disagree with his assessment. I share Chairman Goodling's concerns and felt that the events surrounding the release warranted further review by the Subcommittee on Oversight and Investigations.

The Committee has received materials from NAGB and NCES that reveal a blatant disregard for the Policy Statement on "Reporting and Dissemination of National Assessment Results." According to information submitted to the Committee, Commissioner Forgione participated in a conference call on February 8, 1999, with representatives from the Office of the Vice President, the Office of the Secretary of Education, and the Department's Office of Public Affairs. It is our understanding that at that meeting, Commissioner Forgione supported an agenda in which he would open the press conference and release the results at 10:00 A.M., followed by the Chairman of NAGB. Finally, the Vice President, the Secretary of Education, and a teacher would be given an opportunity to comment on the results. Subsequent to that meeting on February 8 and before the public release of the results on February 10, the Department "informed" NCES that the agenda had been changed. There was to be a shift in the order of the presenters and a delay until 11:00 A.M., at which time the Secretary and Vice President would open the press conference. At a minimum, the approved NCES release plan was disregarded. Subsequent to the press conference on February 10, NAGB has adopted new language for their policy on the dissemination of results in an effort to clarify the necessity for the credible release of National Assessment data. As I mentioned before, I believe that the original policy adopted by NAGB in 1990 was explicit and unequivocal.

When it comes to making important decisions about the NAEP test itself, NAGB should be completely isolated from politics. When it comes to measuring the progress of our nation's children, we need to ensure that scores are as accurate as possible and we must not let politics influence our ability to measure student achievement. In addition to questions about the release of the scores, I have questions about how well the new NAEP inclusion policies are working. Why did the exclusion of students with disabilities and limited English proficient students increase since the 1994 test? Was NAGB acting independently and in the interest of getting valid test data when it decided to adopt a new inclusion policy for the 1998 reading test? Was NAGB pressured into making decisions that have brought us to where we are today, questioning the way in which the results were released and the possibility that the scores themselves might have been clouded by politics? These are questions that must be answered to understand what we need to do to protect the NAEP test from political manipulation.

Specifically, we should review the process in which the Vice President became the featured speaker; discuss whether or not the Vice President's comments were thorough and consistent with Board policy; and revisit the issue of whether or not it's possible for NCES and NAGB to remain independent as currently configured.

I would like to thank our witnesses for appearing before the Subcommittee this morning, and with that I would yield to the Ranking Member for any statement he may have.

**APPENDIX B - WRITTEN STATEMENT OF PASCAL D. FORGIONE, JR,
Ph.D., US COMMISSIONER OF EDUCATION STATISTICS, NATIONAL
CENTER FOR EDUCATION STATISTICS, OFFICE OF EDUCATIONAL
RESEARCH AND IMPROVEMENT, US DEPARTMENT OF EDUCATION,
WASHINGTON, DC**

**Committee on Education and the Workforce
U.S. House of Representatives**

Washington, DC

**Issues Surrounding the Release of the 1998 NAEP
Reading Report Card**

By:

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May 27, 1999

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Issues Surrounding the Release of the 1998 NAEP Reading Report Card

Pascal D. Forglone, Jr.

Good Morning. My testimony will focus on the two issues identified in your recent correspondences, namely: (1) whether some states possibly improved their 1998 NAEP reading scores because they excluded higher proportions of students with disabilities and limited English skills than in previous years, and (2) were NAEP policies and processes followed (or not followed) in releasing the 1998 NAEP reading scores.

Specifically, my testimony responds to your letters of April 21, 1999, April 29, 1999, and May 19, 1999 (see Attachments A, B, and C) which requested information from the National Center for Education Statistics (NCES) and the National Assessment Governing Board (NAGB) related to the release of the 1998 reading results from the National Assessment of Educational Progress (NAEP). The 1998 NAEP reading results were released in two stages earlier this winter. On February 10th the National results for Grades 4, 8, and 12 were released, and on March 4th the State results for the 43 states/jurisdictions that participated in the grade 4 reading assessment and the 41 states/jurisdictions that participated in the grade 8 reading assessment were released.

To respond to each of the eleven (11) items specified in your April 21st correspondence, two volumes have been prepared and provided to the Committee, one each by NCES and NAGB. The NAGB responses (which are contained in Volume 2) were transmitted on

May 5th to your office and NCES responses (which are contained in Volume 1) were provided on May 13th.

My testimony is organized in two sections that provide background for the eleven items specified in the April 21st correspondence. First, I will set a context for the issue of the NAEP reading results and the rates of exclusion, and second, I describe the plans and timetable for the release of the 1998 NAEP reading results.

I. State NAEP and Exclusion Rates

Issue Background

Shortly after the release of the State NAEP results in early March, I was informed that concerns had been expressed around a possible relationship between changes from 1994 to 1998 in the NAEP reading scores for some states and changes in the rates of exclusion of students with disabilities or students with limited English proficiency from 1994 to 1998. The basic question is whether the changes in reading scores truly reflect overall differences in student performance, or whether they reflect to some degree, changes in the population being tested. The issue was reported in a number of national and local media.

My office also received a number of inquiries from interested states that wished more information on this topic (e.g., Alabama, Connecticut, Kentucky, and West Virginia). Simultaneously, I received inquiries from a number of U.S. Department of Education staff who had become aware of this matter.

The week following the release of the State NAEP reading results on March 4th, my staff in the Assessment Division began to receive a series of telephone requests for information on this topic. I immediately met with staff to research this matter and to prepare for the requested telephone interviews with various media sources. I developed

an outline of the issues to be addressed and secured copies of the respective tables from both the 1998 and the 1994 NAEP Reading Report Card publications.

I immediately contacted Dr. Roy Truby, the Executive Director of NAGB, to advise him, and asked him to alert his staff and the NAGB of this emerging issue. I also informed him that I had directed Dr. Peggy Carr, who is the Associate Commissioner for the Assessment Division/NCES and in charge of the NAEP Program, to proceed immediately to design a series of post-hoc analyses to explore the issue of the impact of the rates of exclusion on the 1998 State NAEP reading results. This would be an examination of all states that participated in the Grade 4 State NAEP reading assessments in both 1994 and 1998.

I proposed that the Commissioner brief NAGB on this topic at its upcoming Board meeting, scheduled for May 14, 1999. I further indicated that it would never be possible to know precisely the impact of increased exclusion rates on NAEP scores since such an analysis includes estimating what might have occurred had the exclusion rates been comparable. In addition, variations in state and local inclusion policies, as well as many other factors unrelated to inclusion, affect academic performance. Nevertheless, we are hopeful that these analyses will shed some light on this issue.

Dr. Carr and her staff initiated planning work with our primary NAEP contractor, the Educational Testing Service (ETS). Our initial analysis showed that this issue was limited to the individual state samples drawn for the 1998 NAEP reading assessment in

Grade 4. Since the 1998 State NAEP reading assessment represented the first time that State NAEP was offered at Grade 8 no trend data are available to be analyzed. In addition, since the NAEP national sample, which was drawn separately from the state samples, exhibited a comparable exclusion rate of 6% for students with disabilities in both assessment years (1994 and 1998), changes in the exclusion rate can be plausibly ruled out as an explanation for the reported achievement gains for the Nation as a whole.

To research the concern about exclusion rates influencing changes in NAEP reading scores in one or more states, NCES asked ETS to conduct a series of analyses. The analyses examined reading scores and exclusion rates in all jurisdictions that participated in the NAEP Grade 4 reading assessment in 1998 and 1994, in order to address the following questions:

1. What is the pattern of changes in exclusion rates between 1994 and 1998? Is there an emerging pattern across all states or is the condition limited to a few states?
2. What is the statistical relationship between changes in exclusion rates and gains in reading scores?
3. Are there differences in the severity of disabilities of excluded students in 1994 compared with 1998?
4. Were there differences in the exclusion rates in 1998 between the disabled students who were offered test accommodations and students who were not offered accommodations?
5. For states with the largest increases in exclusion rates, how would gains in reading scores have been affected, if 1994 and 1998 exclusion rates had been equal? Would individual state scores likely have been lower, if they had excluded the same percentage of students in the two assessment cycles?
6. What are the contributions of changes in students with disabilities versus students with limited English proficiency to the changes in exclusion?

Before summarizing the findings to date with respect to these questions, it is important to point out that the decision to exclude students from the NAEP assessment because of a disability or limited English proficiency is not made by the Federal government. Rather, staff members from participating schools make these judgments by applying the NAEP criteria for inclusion of special needs students. The information that the criteria are applied to may be influenced by differences in state and local policies for identifying and educating such children.

Summary of Findings to Date

Of the six questions we wish to address, analyses have been completed for questions 1, 2, 3, and 5, and initial analysis has taken place to address question 4. Analysis will be forthcoming shortly to answer question 6. The findings to date are summarized below.

1. What is the pattern of changes in exclusion rates and is there an emerging pattern across all states or is the condition limited to a few states?

When averaged over all jurisdictions that participated, grade four state NAEP exclusion percentages, like national exclusion percentages, show only a modest increase. However, exclusion percentages have increased during this period in a number of specific jurisdictions. In 1998 (the most recent state NAEP reading assessment), 14 of the 36 jurisdictions excluded a greater percentage of students than in 1992 (the first state NAEP reading assessment). There were no statistically significant decreases.

2. What are the contributions of changes in students with disabilities versus LEP students to the changes in exclusion?

The exclusion of students with disabilities from state NAEP did increase in a number of jurisdictions during the 1990's. SD exclusion percentages were significantly higher in 1998

than in 1994 for 10 of the 36 jurisdictions in both assessments and showed decreases in two jurisdictions. Increases in LEP exclusion percentages occurred in fewer jurisdictions and tended to be smaller than SD exclusion increases. Between 1994 and 1998 LEP exclusion rates increased by a statistically significant margin in 5 of the 36 jurisdictions. Most of these increases, though statistically significant, were fairly small in magnitude. In addition, one jurisdiction showed a decrease in the LEP exclusion rate.

3. What is the statistical relationship between changes in exclusion rates and gains in reading scores?

In general, there was a moderate positive correlation between changes in average state NAEP scores and changes in the percentages of students excluded. In other words, jurisdictions with larger increases in total exclusion percentages also tended to have larger score increases. Comparing 1998 to 1994, most of the positive association comes from the data from four jurisdictions.

Separate correlations between state score gains and state changes in exclusion rates for this time period were determined for students with disabilities and for LEP students. These correlations revealed that the overall association between exclusion and scale score increases arise primarily from the exclusion of students with disabilities. There is little relationship between changes in LEP exclusion rates and score gains. The correlation between state score gains and changes in LEP exclusion rates was -.07.

4. How would gains in State NAEP reading scores have been affected if exclusion rates had been equal?

The first in a series of model based analyses is used to investigate this question. This scenario of the model is very conservative and is intended to illustrate the magnitude of changes under an extreme set of assumptions:

- The exclusion rates are fixed over time
- The excluded student's scores are at the bottom of the distribution of scores for SD/LEP students.

The rationale for starting with this model rests on a need to investigate the most extreme possible effect on NAEP results assuming the excluded students on the NAEP Reading assessment would have been the poorest performers had they been tested. In fact, if no effects were to be found under this model then there would be no need to examine further scenarios.

The model described above shows that of the thirty-six states in this analysis, the 1994 to 1998 trend findings reported in the *1998 NAEP Reading Report Card* held for 33 states. In the Report Card, ten states showed significant increases in average scale scores from 1994 to 1998. No state showed a statistically significant decline from 1994 to 1998. Of these ten reported increases, eight were still significant when the adjusted means were used. In addition, one state for which no significant change was previously reported would have shown a significant increase from adjusted 1994 to reported 1998. It is of particular interest to consider large and statistically significant score gains and large increases in exclusion rates from 1994 to 1998. When adjusted means were used, the

gains appeared smaller for all four states. However, increases remain statistically significant for all but one.

5. Were there differences in 1998 exclusion rates for students with disabilities and LEP students who were offered accommodations?

Of the forty-four participating jurisdictions at grade 4, six exhibited significantly lower total exclusion rates in the NAEP samples where accommodations were offered (known as the S3 sample) than in the samples in which they were not offered (called the S2 sample). In several of these jurisdictions, the presence of accommodations decreased exclusion rates by 4 to 6 percent. When accommodations were offered exclusion rates appeared lower in all but five jurisdictions of the remaining jurisdictions. These apparent differences were not, however, statistically significant. Grade 4 exclusion percentages for students with disabilities were significantly reduced in 13 of the 44 jurisdictions. Grade 4 LEP exclusion percentages were significantly lower in S3 compared with the S2 sample in only one jurisdiction. It should be noted that because the NAEP program viewed this assessment, as an assessment of Reading in English, the program did not produce translated versions of the instrument.

For grade 8, total exclusion rates were significantly lower when accommodations were permitted in 11 of the 41 jurisdictions. For students with disabilities, again, 11 of the 41 jurisdictions showed significant reductions in exclusion percentages when accommodations were offered. As was the case at grade 4, only one state showed a significant difference for LEP students.

Next Steps

In the coming months, NCES will complete the second phase of the analysis in which additional model-based analyses will be conducted to examine the possible impact on the overall gain score of changes in exclusion rates over time. In addition, the second phase of the analysis will examine the relationship between the severity of disabilities of excluded students in 1998 compared to previous assessments. Also, NCES will complete a NAEP research report on inclusion issues in 1996 mathematics and science assessments and the 1998 reading assessment, which will provide valuable insight into our future procedures and activities. Finally, the results of all of these analyses will be examined by the National Institute of Statistical Sciences, an independent body, to evaluate the technical merits of our investigation, as well as how the Center should address the issue of changes in exclusion rates in its future NAEP reporting.

II. Release of the 1998 NAEP Reading Results

I will now review the plans and timetable related to the release of the 1998 NAEP Reading results. The results were reported in two parts: first, the National NAEP results on February 10, and subsequently, the State NAEP results (for 43 states/jurisdictions at Grade 4 and 41 states/jurisdictions at Grade 8) on March 4th.

Issue Background

Essential to the NCES mission as a federal statistical agency is the requirement that the Commissioner must release all education data for the agency. This can take the form of a publication, a data file, and/or an electronic release. During my tenure of nearly three years as Commissioner, I can attest to the integrity of NCES' operation in terms of our independence in the design, development, analysis and report content of our statistical and assessment work. NCES has achieved an outstanding reputation among its users/clients for the quality and comprehensive of its data.

The issue at hand in the release of the 1998 NAEP Reading Assessment results relates solely to the presentation of the data at the February 10th press conference. The Commissioner electronically released the National NAEP data on the NCES website at 10:00 a.m. that morning. However, the fact that someone other than the Commissioner

was the first one to announce these findings publicly at the press conference created a perception that called into question the independence and integrity of the data.

The following is the specific sequence of actions related to both NAEP releases which occurred on February 10 and March 4, 1999.

National NAEP Reading Results: February 10, 1999 Release

In November 1998, NCES staff secured the approval of the National Assessment Governing Board's Committee on Reporting and Dissemination for the draft release plan for the 1998 NAEP Reading Assessment. Beginning in early January, the Commissioner met with U.S. Department of Education staff from the Secretary's office and the Office of Public Affairs to brief them on the upcoming NAEP release and to secure the Secretary's review of the proposed release plan. After a series of interchanges, Roy Truby, Executive Director of NAGB, and I were informed that there was possible White House interest in participating in the 1998 NAEP reading release.

Reports released by NCES are subject to an extensive statistical review process, titled adjudication, which is conducted by the Chief Statistician at NCES and involves input from both internal (NCES, U.S. Department of Education and NAGB), as well as external (independent reviews of outside experts) sources.

In late January, as NCES was completing its adjudication review of the 1998 NAEP reading report card, an error was detected by NCES that related to the 1998 State NAEP

reading assessment. Fortunately, the error which occurred during the processing by Westat, a NAEP contractor, only impacted on the state results, and not on the national data. NCES staff then conferred with both ETS and Westat to develop a revised production schedule for re-doing the initial state report. The Commissioner then informed both the Department and the NAGB of the proposal to release the 1998 NAEP Reading results in two phases:

- On February 10th, the National NAEP results for Grades 4, 8, and 12 for 1998, as well as trends from 1992, 1994, and 1998; and
- In early March (later set for March 4th), the State NAEP results for grade 4 (43 states) and grade 8 (41 states), as well as the trend data for grade 4 (1992-1994-1998) for those state that had participated over time.

NAGB held a special conference call of the Reporting and Dissemination Committee, which endorsed the Commissioner's proposal to keep the February 10th release on the National NAEP data, and later to report the State NAEP results in early March. In late January the Commissioner informed the states in a memorandum of the need to delay the release of the 1998 state NAEP reading results.

The week of February 1st, the Commissioner received the request from the Secretary's Office to add a practicing teacher to the press conference agenda. I checked with the Executive Director of NAGB and secured the Governing Board's support to add a fourth participant to the February 10th press agenda.

Late in the week prior to the release of the National NAEP reading results, Maureen Treacy, the NCES Communication Officer, and I were alerted by the Department that the Vice President's Office wished to become involved in the February 10th release. On Monday, February 8th, I participated in the conference call with the staff for the Vice President's office, the Secretary's office, and the Office of Public Affairs of the Department of Education. I advocated that the event should proceed at 10:00 a.m., (as originally proposed by NCES and approved by NAGB), with the Commissioner opening and releasing the results, and followed by the Chairman of NAGB who would present the NAGB position on the National NAEP reading results. Then, the Vice President, the Secretary and others (possibly the teacher) could comment on the results. When I left the meeting, it was my understanding that this is what would take place on the 10th. I then called Roy Truby to inform him of the conference call discussion and to let him know that the original approved plan was still in effect.

Later, I learned from Maureen Treacy that the Department had informed her that the agenda had been changed. There was to be a shift in the order of the presenters and a delay until 11:00 am for the press conference at which time the Secretary and Vice President would open the press conference. Since we had already alerted our clients to the availability of the National NAEP reading data by 10:00 a.m., on Wednesday, February 10th, I instructed NCES staff to release the results electronically on the Web by 10:00 a.m. that morning to ensure that the Commissioner would fulfill his responsibility to release the data. The Commissioner's Statement was released electronically and presented later that morning by the Commissioner at the February 10th press conference.

Three poster boards were also used to summarize the 1998 NAEP reading assessment results.

State NAEP Reading Results: March 4, 1999 Release

Following the release of the National NAEP results concerns were raised over the deviation from the release protocol that called for the Commissioner to release the NAEP results. The Commissioner received a letter from the NAGB Chairman that expressed the Board's concerns about the recent press conference for release of the 1998 NAEP Reading Report Card. A plan for the March 4th release, which reflected this protocol, was presented by NCES to NAGB's Reporting and Dissemination Committee. There was unanimous agreement among NAGB members that greater caution and care needed to be exercised in the release of future NAEP results by the Commissioner and NAGB. The March 4th press agenda reflects this position.

On March 4th at 10:00 a.m. the Commissioner released the 1998 State NAEP reading assessment results that strictly followed the approved plan. The Commissioner's statement was released simultaneously at 10:00 a.m. at the press conference and on the NCES website. As part of the Commissioner's presentation of the State NAEP reading results, two additional poster boards were used.

At the March 10-12, 1999 Board meeting, there was considerable discussion related to the release of the 1998 NAEP reading results. The Commissioner supported the Board's decision to review the release policies and protocols to ensure that future NAEP data

releases would avoid any inappropriate appearances or preceptions. At the May 13-15 meeting, the Governing Board took action on this matter.

**APPENDIX C - WRITTEN STATEMENT OF MARK D. MUSICK, CHAIRMAN,
NATIONAL ASSESSMENT GOVERNING BOARD, WASHINGTON, DC**



National Assessment Governing Board

National Assessment of Educational Progress

Testimony of Mark D. Musick
Chairman, National Assessment Governing Board
before the
Subcommittee on Oversight and Investigations
Committee on Education and the Workforce
U.S. House of Representatives

Hearing on Student Exclusions
and Public Release of
NAEP 1998 Reading Assessment

May 27, 1999

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Good morning, Mr. Chairman, I am pleased to testify before the Subcommittee today on behalf of the National Assessment Governing Board.

I am Mark D. Musick, the current Chairman of the Governing Board, which sets policy for the National Assessment of Educational Progress. I also am president of the Southern Regional Education Board, which is based in Atlanta, where I live.

The National Assessment Governing Board was created by Congress in 1988. It is an independent, bipartisan, 26-member group, composed of state and local officials, educators, test experts, and business and public representatives. The National Assessment, for which it sets policy, is the only program that provides sound, comparable data on what American students know and can do in a range of academic subjects.

The Assessment has been doing this for the nation as a whole, through nationally representative surveys, since 1969. NAEP's state-by-state assessments—which also are done as representative-sample surveys—started in 1990. Since then, 49 states have participated, on a voluntary basis, in assessments of mathematics, reading, science, and writing. In many respects, the National Assessment has become the nation's most valuable and reliable report card on student achievement in elementary and secondary schools.

It is because of NAEP's role, as an independent, external measure of what students have learned that the issues before this subcommittee today are so important. The administration and reporting of NAEP must be scrupulously honest, consistent, and fair, and the National Assessment must be carried out free from political pressures to make American education look either good or bad.

The Governing Board was created to help ensure these important objectives. In fact, the blue-ribbon study commission, which recommended its creation, envisioned the board as a means to "buffer" the National Assessment from what it called "manipulation by any individual, level of government, or special interest within the field of education." Congress included in the 1988 legislation a structure for NAEP that the commission felt would "supply needed checks and balances and 'separations of power' for this important and sensitive enterprise."

The Governing Board's commitment to these objectives remains strong. And they relate closely to the issues I was asked to focus on today: first, the release of the 1998 NAEP reading results, and, second, the question of whether the reading scores for some states may have improved because more students were excluded from taking the test because of disabilities or limited proficiency in English.

RELEASE OF THE 1998 NAEP READING RESULTS: POLICY AND PROCESSES

As you may know, I have served on the Governing Board since it was established in 1988. I have been appointed to it by both Republican and Democratic secretaries of education—William Bennett, Lamar Alexander, and Richard Riley. The current vice-chairman of the Board, Michael Nettles, was appointed by both Secretary Alexander and Secretary Riley.

Since it was established, the Board has tried to make sure that the release of NAEP results is straight-forward and separated from partisan politics. The Board adopted its first policies on this issue in November 1990. And the policies have been followed almost completely in more than two dozen data releases since then—with only two important exceptions. The first was the premature release of NAEP reading results by President Bush in May 1992 at a school visit and then a political fund-raiser in Atlanta. The second was this past February when Vice President Gore came to the Education Department to announce NAEP's reading results for the nation.

In both cases, the chairman of the Board, first my predecessor Richard Boyd, and then myself, clearly and publicly expressed our concern that these actions were contrary to the Board's policy and could harm the credibility of National Assessment results. After the most recent case, the Board reviewed its policy and adopted revisions at the Board meeting of May 15. The new policy makes it even more explicit that NAEP results are to be released by the Commissioner of Education Statistics in an independent and non-political way.

Since February, there has been one more major NAEP data release—the 1998 state NAEP results, which were reported on March 4. That release completely followed the Board's policy and the Board-approved plan for the data release.

I would like to submit for the record the letters written by Richard Boyd and myself along with a copy of the Policy Statement on Reporting and Dissemination of National Assessment Results, as amended and adopted by the Board unanimously on May 15.

You will notice that both of the letters are addressed to the Commissioner of Education Statistics. That is because of the rather complicated structure of the National Assessment program. The Governing Board sets policy for NAEP, and under the law this includes the test content frameworks, the student performance standards, the methodology of the assessment, and the "guidelines for reporting and disseminating results."

However, the NAEP program is carried out or administered by the Commissioner of Education Statistics who is head of the National Center for Education Statistics, which is part of the Department of Education. By law, in setting its policies, the Governing Board is "independent of the Secretary and the other offices and officers of the Department [of Education]." The Commissioner implements Board policies, but he is an officer of the Education Department, appointed by the President and subject to confirmation by the Senate.

Going back to 1990, the Board's policy has stated that NAEP results are to be "issued by the Commissioner...in accordance with NCES clearance and review procedures" and that the reporting and dissemination of NAEP results "shall be apolitical...(and) insulated from partisan political considerations and processes." Another important point of the policy has been that "any initial public release of NAEP data shall be made only in accord with a specific plan and timetable approved in advance by the Board or one of its duly constituted committees."

Unfortunately, the plan approved by the Board was not followed in the case of Vice President Gore's presentation at the February 10 reading release. As I said in my letter, "the format, tone, and substance of that event was not consistent with the principle of an independent, non-partisan release of National Assessment data...." I don't think there was anything sinister in what happened, but clearly the release got away from NCES and the approved plan.

In revising the NAEP release policy earlier this month, the Board added new language which underlines our previous position. It reads: "The initial release of NAEP data shall be independent and apolitical, separated clearly from other programs and policies of the Department of Education." It also adds that the official press statement or release announcing NAEP results shall be issued by the National Center for Education Statistics, rather than by any other part of the Department of Education.

Commissioner Forgione has told the Board that he supports these changes. We welcome that, though, of course, we are disappointed that he will be leaving his post soon. We hope that whoever is appointed as the new Commissioner will support the Board's policy and follow it too.

Our view is that NAEP information absolutely has to be viewed as not political. Otherwise, it loses its value. NAEP releases should place the facts before the American public and not become political events.

EXCLUSION OF STUDENTS FROM NAEP SAMPLES

The second issue we are discussing today is the exclusion of students from the state NAEP samples. Commissioner Forgione has made an initial report on this, based on a study by Educational Testing Service. I know he has shared the report with the subcommittee and will be discussing it with you today.

However, the issues involved and dilemmas we face go well beyond the National Assessment program. They are part of something much larger going on in American society and affect all testing programs and the efforts in many states and school districts to have high student performance standards and accountability.

Briefly, the movement for high standards, which is coupled with standardized tests to show whether students have met them, is occurring at the same time as efforts to expand services for disabled students and to test them under non-standard conditions with accommodations. Throughout the country, in many state testing programs and college admissions tests, the most common of these accommodations is additional time. Other modifications include testing in small groups, reading questions or directions aloud, giving word lists or dictionaries to the students, or providing them with a scribe to record their answers.

One important factor in these developments is IDEA--the Individuals with Disabilities Education Act, passed by the Congress with overwhelming majorities in May 1997. The law provides specifically that students with disabilities are to be "included in state and district-wide assessment programs with appropriate accommodations." Another provision states that the individualized education plan (or IEP), which is required for each disabled student, must include a statement of any "modifications in the administration of state or district-wide assessments of student achievement that are needed in order for the child to participate" in the assessment.

The NAEP inclusion policy, which was changed somewhat for the 1998 assessments, says that NAEP should follow each child's special education plan. And if the plan for a particular child calls for accommodations that NAEP doesn't offer, then the student should be excused from taking the assessment. Of course, these individualized education plans are affected not only by federal law but also by each state's own laws and policies related to its own educational accountability program. And all the laws and policies are open to interpretation by the counselors and teachers who deal with particular children in the thousands of schools where testing takes place.

According to a number of surveys and studies, there are significant differences between states and even among districts and schools in the same state about which children are classified as disabled and which conditions merit certain accommodations. There also are concerns that results from tests taken with accommodations may not be comparable to results under standard testing procedures.

Around the country the variations are particularly great for the category of specific learning disabilities, such as attention deficit disorder. And the learning disabled group is growing rapidly. It now makes up almost half of 5.5 million disabled children in American schools.

Inevitably, NAEP is affected by these larger patterns and trends. In dealing with inclusion and exclusion issues, the Governing Board has tried to act carefully and responsibly. I think the materials on Board deliberations and decisions will show that. But the changes going on in the states, as reflected in state programs and laws, and the impact of the IDEA law, do have an impact on the National Assessment. These changes do have a bearing on NAEP reports over time and on comparisons among the states.

NAEP has conducted extensive research on the impact of different inclusion rules and on allowing different accommodations. There was a major research study as part of the 1996 mathematics and science assessments. Unfortunately, the full report on this study has not yet been issued by NCES.

However, based on a preliminary report, made by NCES and ETS, that the proposed new exclusion rules for NAEP would have no significant impact on results, the Board agreed to adopt them for the 1998 reading assessment. In order to maintain a trend, we did not allow any accommodations in the official reporting samples. However, we did approve having a second sample for research purposes—with a limited number of low-cost accommodations allowed. For the 1998 writing and civics assessments, which are new exams, the Board approved using the new inclusion rules along with limited accommodations.

The Board also approved some changes in the rules for excluding students with limited English proficiency. However, as the Commissioner's report indicates, the increase in exclusions for these students was small and occurred in only a few states.

The texts of the old and the new NAEP inclusion rules have been submitted to the subcommittee already. We have also submitted the preliminary summary of the research on the 1996 NAEP assessment on which the Board relied.

Over the next few months we will be looking carefully at the 1998 writing assessment, which includes state-by-state results, to make sure that variations in the rate of exclusions and accommodations are clearly reported when these results are made public in late September. We will also be considering policies for the assessments in mathematics and science, scheduled for the year 2000. In these assessments it will be very important to preserve the trends, which in 8th grade math go back to the first state-level NAEP in 1990.

Quite frankly, no matter what rules NAEP sets, there has always been some variation in exclusion rates between the different states and in particular states over time. Of course, this has some impact on the reliability of comparisons, though, overall, we remain convinced that the National Assessment is valid and reliable within the quite narrow margins of error of the survey methodology used. NAEP strives hard for fairness and consistency. With the different changes going on in different states and from IDEA, that job is becoming more difficult.

Mr. Chairman, thank you for the opportunity to testify. I will be happy to try to answer any questions you may have.

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**APPENDIX D - SUBMITTED FOR THE RECORD, POLICY STATEMENT ON
REPORTING AND DISSEMINATION OF NATIONAL ASSESSMENT
RESULTS, NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS,
NATIONAL CENTER FOR EDUCATION STATISTICS, ATLANTA, GA,
NOVEMBER 17, 1990**

NATIONAL ASSESSMENT GOVERNING BOARD

POLICY

- I. Subject: Reporting and Dissemination: General Policy
- II. Policy Number: 1.6(A)(vi).08
- III. Effective Date: November 17, 1990
- IV. Policy Statement: See attached
- V. Accompanying guidelines: None
- VI. References: None
- VII. Distribution: Internal, OERI, NCES
- VIII. Responsibility: Executive Director/Assistant Director for Reporting and Dissemination

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Dissemination

15. Board staff shall consult with education, business, and civic organizations to gather ideas for making NAEP results more useful and meaningful to the public, teachers and school officials, and educational researchers.

16. NCES and Board staff shall work with organizations of parents, teachers, school board members, principals, and other school officials and personnel to disseminate NAEP results to their members.

17. Presentations and briefings on NAEP shall be given by NCES and Board staff and by Board members to business, labor, and civic groups, national education organizations, and policy makers and staff in federal and state governments.

18. The NCES Commissioner and staff, NAEP contractor personnel, and Governing Board members and staff shall be encouraged to speak about the NAEP program and results at meetings and conferences, on radio and television programs, and to newspaper and magazine writers. In these appearances they shall try to increase awareness and understanding of NAEP among the public, educators, and government officials.

19. The limitations on interpretation, conclusions, and recommendations contained in NAEP reports, which are stated in Point 2 above, shall apply fully to dissemination materials on NAEP prepared or distributed by ** for NCES, or by the NAEP contractor or grantee.

Approved: November 17, 1990
Atlanta, Georgia

POLICY STATEMENT ON
REPORTING AND DISSEMINATION
OF NATIONAL ASSESSMENT RESULTS

INTRODUCTION

As the Nation's Report Card, the National Assessment of Educational Progress (NAEP) is an ongoing, Congressionally-mandated project established to collect data through surveys on the educational performance of young Americans. Its primary goal is to report objective information on academic achievement to the American public, policy makers, and educators at the national, state, and local levels.

By legislation (P.L. 100-297), the National Assessment is "placed in the National Center for Education Statistics." It is carried out by the Commissioner of Education Statistics, through contracts, grants, or cooperative agreements, under policy guidance of the National Assessment Governing Board (NAGB). The Commissioner shall be appointed by the President and confirmed by the Senate for fixed four-year terms, commencing June 21, 1991. The Governing Board is a bipartisan, legislatively defined, policy-making body, appointed by the Secretary of Education in categories prescribed by law from among nominees proposed by the Board itself.

According to the statute, "in the exercise of its functions, powers, and duties, the Board shall...be independent of the Secretary and the other offices and officers of the Department of Education." Among its specific responsibilities are:

(1) developing "guidelines and standards for analysis plans and for reporting and disseminating results;" (2) developing "standards and procedures for interstate, regional, and national comparisons;" (3) identifying "appropriate achievement goals for each age and grade in each subject area to be tested under the National Assessment;" and (4) taking "appropriate actions needed to improve the form and use of the National Assessment."

To carry out these responsibilities the Board hereby adopts guiding principles, policies, and procedures for reporting and disseminating National Assessment results.

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GUIDING PRINCIPLES (Reporting)

1. All National Assessment of Educational Progress results shall be reported accurately and with clarity of presentation.

2. Results shall be made available to the public as expeditiously as possible.

3. Reports of NAEP results shall be straight-forward presentations of data, free from unsubstantiated observations, opinions, or points of view.

4. The reporting and dissemination of National Assessment results shall be insulated from partisan political considerations and processes.

5. All reports shall contain clear information on test methodology, sampling, scoring, and scaling procedures.

6. Release of NAEP reports shall be carried out in such a way as to encourage the widest public attention to NAEP results.

7. Specialized reports for different audiences and companion reports providing commentary and analysis may be prepared with the approval of the Board and the Commissioner. However, preparation of such reports shall not delay the general public release of data.

8. Reports of NAEP data may include information from other sources on demographic characteristics and resource inputs that may provide context for understanding results.

GUIDING PRINCIPLES (Dissemination)

9. NAEP results shall be disseminated through the media and through a wide network of education, business, labor, civic, and other interested groups so as to obtain broad public awareness of the data and their meaning.

10. Reports on NAEP data and any companion reports shall be made available to decision-makers and practitioners at all levels of education and governmental activity having an interest in NAEP results.

11. Teachers, principals, and parents shall be key audiences for NAEP reports and dissemination materials.

12. A wide variety of materials, appropriate to various audiences, shall be developed to carry out NAEP dissemination.

POLICIES AND PROCEDURES

Report Preparation and Content

1. Reports of NAEP results shall be issued by the Commissioner of Education Statistics in accordance with NCES clearance and review procedures to ensure technical soundness and accuracy.

2. Interpretation of results and conclusions as to cause and effect relationships shall be limited in official NAEP reports and must be strongly supported by NAEP survey results. NAEP reports shall not contain statements on education policy or practice unless strongly supported by NAEP data. Reports shall contain the names of their authors.

3. The framework of student achievement levels adopted by the Governing Board shall serve as the primary means of reporting results for all newly-developed assessments in 1992 and thereafter.

4. Reports of state-by-state NAEP data shall include information on demographic characteristics and resource inputs that may provide context for understanding results. In addition to information collected by NAEP survey questionnaires, the contextual information may include such data as per capita income, the poverty rate for school-aged children, current expenditures per pupil, pupil/teacher ratio, and average teacher salary.

5. Members and staff of the National Assessment Governing Board shall be included in the peer review process of NAEP reports prior to their release.

6. Each report of NAEP results shall contain a description of the role and responsibilities of the National Assessment Governing Board and a list of current Board members.

Public Release of NAEP Results

7. Public reporting and release procedures for NAEP shall be apolitical, similar to those of other Congressionally-mandated data-gathering programs. By insulating NAEP from partisan political considerations, the release procedures should serve to uphold the credibility of NAEP data and to encourage the continued voluntary participation of schools, school districts, and states in NAEP surveys.

8. The release date and manner of release of NAEP results shall be determined by the Commissioner with the approval of the National Assessment Governing Board. Any initial public release

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of NAEP data shall be made only in accord with a specific plan and timetable approved in advance by the Board or one of its duly constituted committees. All press briefings accompanying data release shall be part of the approved plan.

9. At least ten days prior to public release the Board shall receive review copies of NAEP reports and any other material the Commissioner plans to include with the public release. However, in the case of state-level assessment results, state identities may be masked.

10. At press conferences for the release of NAEP results, the Commissioner of Education Statistics and/or his designees (NCES staff or representatives of the NAEP contractor or grantee) shall present major data findings. The National Assessment Governing Board shall select members to participate in each press conference to provide commentary about the meaning of the test results. In addition, either the Commissioner or the Board may invite other officials or experts to comment on the significance of results at the time of their release in accord with the specific plan approved in advance by the Board or one of its duly constituted committees. Any press statement or release shall indicate clearly that data are being released by NCES.

11. With the approval of the Board and the Commissioner companion reports providing commentary and analysis of NAEP data may be released by NCES or NAGB at the same time as the official NAEP reports. Such companion reports may be more speculative and interpretive than the official NAEP reports; their authors and sponsorship shall be clearly stated; they must be clearly distinguished from official NAEP reports. No reports or publications may included in the press packet or dissemination materials accompanying release of a NAEP report without approval of the Board and the Commissioner.

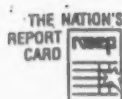
12. Press conferences and press releases for NAEP reports shall not be used to release or distribute any reports that do not pertain to NAEP.

13. Copies of NAEP reports may be provided on an embargoed basis prior to release to federal and state officials, educational organizations and researchers, and members of the press.

14. The Board or its Executive Director may issue press statements commenting on results at the time NAEP reports are released.

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APPENDIX E - SUBMITTED FOR THE RECORD, LETTER FROM MARK D. MUSICK, CHAIRMAN, NATIONAL ASSESSMENT GOVERNING BOARD, WASHINGTON, DC TO DR. PASCAL D. FORGIONE, JR, COMMISSIONER OF EDUCATION STATISTICS, WASHINGTON, DC, FEBRUARY 18, 1999



National Assessment Governing Board

National Assessment of Educational Progress

February 18, 1999

Dr. Pascal D. Forgione, Jr.
Commissioner of Education Statistics
555 New Jersey Avenue, N.W., Room 400
Washington, D.C. 20208

Dear Pat:

At the direction of the Executive Committee of the National Assessment Governing Board, I am writing to express the Board's concern about the recent press conference for release of the 1998 NAEP Reading Report Card. We believe that the format, tone, and substance of that event was not consistent with the principle of an independent, non-partisan release of National Assessment data, an important and long-standing Board policy.

You and I discussed this problem immediately after the release on February 10. I expressed my concern that the way the event unfolded would be perceived, understandably, as an announcement of results by the Vice President, rather than by the Commissioner of Education Statistics, and that there were some significant political overtones.

The purpose of this letter is not to place blame. We do want to underscore the need to carry out the Board's policy, adopted in 1990, that NAEP results are to be "issued by the Commissioner...in accordance with NCES clearance and review procedures" and that the reporting and dissemination of NAEP results "shall be insulated from partisan political considerations and processes." Unless that is done, it eventually won't matter how much attention is paid to the results; people won't believe them.

At its November meeting, the Board approved an NCES plan for a February press conference to release the reading results. Unfortunately, the plan was not followed (please see attachments), and the arrangements seemed to put more focus on the Vice President and the Administration's education plans than on the NAEP report. In fact, the presentation of data by the Commissioner took place toward the end of the program, after the Vice President and much of the audience had left the hall. The press was placed in a roped-off area at the rear, with education association representatives and Education Department staff at the front. As The New York Times noted, the event was "more political than usual" for a NAEP release.

Certainly, we appreciate that the Vice President's interest adds to public awareness of NAEP results. For over a decade, Secretaries of Education from both political parties have participated in NAEP data releases in appropriate ways. We are grateful for the support that the Administration has given to many of the Board's positions.

800 North Capitol Street, N.W.
Suite 825, Mailstop 7583
Washington, D.C. 20002-4213
Phone: (202) 357-6938
Fax: (202) 357-6945

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By statute, however, the National Assessment Governing Board is independent and bipartisan. It is strongly committed to maintaining the National Assessment as a reliable, independent report on student achievement. This outlook is in line with the recommendations made more than a decade ago by the Alexander-James Commission, on which you served, and that formed the basis for the law establishing NAGB in 1988.

The Board takes seriously its responsibility under the statute to develop guidelines, standards, and procedures for reporting and disseminating NAEP comparisons and results. Our members believe strongly that release of NAEP data must be separated fully from partisan politics. In 1992 Richard Boyd, one of my predecessors as chairman of the Board, sent a letter similar to this, expressing concern about actions by President Bush that the Board believed were an inappropriate release of NAEP data in a partisan setting. Since then, the role and value of the assessment in national education policy has risen even more, making it all the more important that public confidence in NAEP be maintained.

The pertinent parts of the Board policy on public release are as follows:

"Reports of NAEP results shall be issued by the Commissioner of Education Statistics....Public reporting and release procedures for NAEP shall be apolitical, similar to those of other Congressionally-mandated data gathering programs. By insulating NAEP from partisan political considerations, the release procedures should serve to uphold the credibility of NAEP data and to encourage the continued voluntary participation of schools, school districts, and states in NAEP surveys....Any initial public release of NAEP data shall be made only in accord with a specific plan and timetable approved in advance by the Board or one of its duly constituted committees."

I know you share the Board's belief that the release of NAEP data must be made in a non-partisan, even-handed way that assures full confidence in its integrity. At our meeting in March, the Board and its Reporting and Dissemination Committee hope to discuss with you what further steps should be taken to achieve this important end, and to prevent a recurrence of the way the reading release was handled.

Sincerely,



Mark D. Musick
Chairman

Attachments

NATIONAL CENTER FOR EDUCATION STATISTICS
NOVEMBER 6, 1998

Attachment 1

APPROVED UNANIMOUSLY BY NATIONAL
ASSESSMENT GOVERNING BOARD -

November 21, 1998

NCES RELEASE PLAN FOR UPCOMING NATIONAL
ASSESSMENT OF EDUCATIONAL PROGRESS (NAEP) REPORT

NAEP 1998 Reading Report Card for the Nation and the States

SUMMARY

The National Center for Education Statistics (NCES) proposes to release the *NAEP 1998 Reading Report Card for the Nation and the States* at a press conference in Washington, D.C., in early February, 1999. In addition to both the national and state reports, a Popular Report will be released at that time. Pascal D. Forgione, Jr., Commissioner of Education Statistics, will present the main findings of the report. Comments will be offered by the Secretary of Education, as well as by a member of the National Assessment Governing Board.

The 1998 NAEP Reading Assessment provides a broad examination of fourth, eighth, and twelfth grade students' performance in reading, as well as information about home and school variables. The assessment also provides results on the reading achievement of fourth and eighth graders in participating jurisdictions. Results are presented for the nation and participating jurisdictions by demographic subgroups for both public and nonpublic schools. In addition, the reports indicate trends from the 1992 and 1994 NAEP reading assessments.

DETAILS

- Report release: Press conference in early February, 1999, in Washington, D.C.
- Week before release: NCES will provide embargoed briefings for the Secretary of Education, the Assistant Secretary of Education, and NAGB representatives.
- Two days before release: NCES will provide embargoed briefings for representatives of Governors and congressional staff.
- Day of the release: The press conference will begin with introductions and a data presentation by Commissioner Forgione. Comments will be offered by Secretary Riley and a member of the National Assessment Governing Board. The press will be invited to ask questions. Staff of NCES and ETS will be available to answer data questions, if needed.
- Day after release: NCES will brief education associations and Department staff.

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NATIONAL CENTER FOR EDUCATION STATISTICS
U.S. DEPARTMENT OF EDUCATION

Press Conference on the Release of National Reading Data from the
NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS
(NAEP)

February 10, 1999 11:00 a.m. (EST)
U.S. Department of Education
Auditorium

Richard W. Riley
Secretary of Education

Emelie Parker
Teacher, Bailey's Elementary School for the Arts and Sciences
Fairfax, Virginia

The Honorable Al Gore
Vice President of the United States

DATA PRESENTATION

Pascal D. Forgione, Jr.
Commissioner of Education Statistics

COMMENTARY AND OBSERVATIONS

Mark D. Musick
President, Southern Regional Education Board
Chair, National Assessment Governing Board

NOTE: At the invitation of Secretary Riley, Under Secretary Marshall Smith
commented on the data after Mr. Musick and responded to reporters' questions.

MEDIA QUESTIONS

**APPENDIX F - SUBMITTED FOR THE RECORD, LETTER FROM RICHARD A.
BOYD, CHAIRMAN TO MR. EMERSON J. ELLIOTT, ACTING
COMMISSIONER, NATIONAL CENTER FOR EDUCATION STATISTICS,
WASHINGTON, DC, JUNE 3, 1992**

June 3, 1992

Mr. Emerson J. Elliott
Acting Commissioner
National Center for Education Statistics
555 New Jersey Avenue, N.W., Room 400
Washington, D. C. 20208

Dear Emerson:

I am sure that you were as surprised and concerned as I was last week when President Bush prematurely described some of the findings of the 1990 NAEP Reading Report on the evening prior to the day when the data were to be officially released by your office. It is in that regard that I write to you today.

As you know, results of the National Assessment of Educational Progress are released by the Commissioner of Education Statistics under the policy guidance of the national Assessment Governing Board. The Board policy, adopted November 17, 1990, provides that "the reporting and dissemination of National Assessment results shall be insulated from partisan political considerations and processes."

In accord with that policy, the Board approved an NCES plan for release of the 1990 NAEP Reading Report at a press conference in Washington. I was surprised and disturbed, therefore, to learn that on the day before the scheduled press conference the main results in the report were released prematurely by President Bush. According to press reports, the President described the NAEP findings and discussed them during two appearances in Georgia: at a private school and at a Republican fund-raising dinner. A summary of results was distributed by the White House.

Of course, we are pleased by the President's interest in NAEP and realize that his attention adds greatly to public awareness of NAEP results. We are grateful for the support that he and Secretary Alexander have given to many of the Board's positions.

By statute, however, the Governing Board functions independently of the Secretary of Education; its membership is bipartisan. Its general outlook on the need for a responsive but strictly independent National Assessment is in keeping with the recommendations made in 1987 by the Alexander-James Study Group on NAEP, chaired by Lamar Alexander when he was Governor of Tennessee.

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Mr. Emerson J. Elliott
Page two

The Board takes seriously its responsibility under the statute to develop "guidelines and standards...for reporting and disseminating (NAEP) results." Our members believe strongly that release of NAEP data must be separated fully from partisan politics. This is especially important because of the need to assure public confidence in the integrity of assessment results, a concern that I know you share.

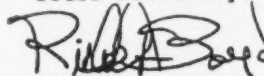
The pertinent parts of the Board policy on public release are as follows:

"Reports of NAEP results shall be issued by the Commissioner of Education Statistics....Public reporting and release procedures for NAEP shall be apolitical, similar to those of other Congressionally-Mandated data-gathering programs. By insulating NAEP from partisan political considerations, the release procedures should serve to uphold the credibility of NAEP data and to encourage the continued voluntary participation of schools, school districts, and states in NAEP surveys....Any initial public release of NAEP data shall be made only in accord with a specific plan and timetable approved in advance by the Board or one of its duly constituted committees."

On numerous occasions you have noted the fundamental importance of the integrity of NAEP data, as well as that of all reports of the National Center for Education Statistics. I fully agree. Therefore, I seek your continuing diligence in doing everything within your power to assure that Board policies aimed at fostering this integrity will be strictly followed. I realize that whenever reports are pre-released to a selected group of officials, there follows the opportunity for the breaking--inadvertently or otherwise--of your embargo.

Certainly, there should be widespread comment on NAEP results, but only after they have been officially released by your office. The assessment is the nation's most valuable source of data about academic achievement in its schools. This role makes it all the more vital that release of NAEP data be made in a non-partisan, even-handed way that assures public confidence in its integrity.

Yours sincerely,


Richard A. Boyd
Chairman

Enclosure
(full text of NAGB policy
on reporting and dissemination)

RAB/js

**APPENDIX G - SUBMITTED FOR THE RECORD, LETTERS FROM
CHARIMAN PETE HOEKSTRA, SUBCOMMITTEE ON OVERSIGHT AND
INVESTIGATIONS, COMMITTEE ON EDUCATION AND THE WORKFORCE
TO DR. PASCAL D. FORGIONE, JR, COMMISSIONER, NATIONAL CENTER
FOR EDUCATION STATISTICS, WASHINGTON, DC AND MR. MARK D.
MUSICK, CHAIRMAN, NATIONAL ASSESSMENT GOVERNING BOARD,
WASHINGTON, DC, JUNE 2, 1999 WITH RESPONSES FROM EACH
RESPECTIVELY DATED JUNE 14, 1999 AND JUNE 9, 1999**

MAJORITY MEMBERS:
PETER HOEKSTRA, MICHIGAN, Chairman
CHARLES W. BROWDER, GEORGIA, Vice Chairman
DICK HELLGART, VERMONT
DICK BOHANNON, COLORADO
THOMAS G. TANKERSLEY, COLORADO
GREG FLETCHER, KENTUCKY



MINORITY MEMBERS:
TIM RICHMOND, ARIZONA, Ranking Member
ROBERT C. SCOTT, SOUTH CAROLINA
RICH KIMBLE, MISSISSIPPI
HAROLD E. FORD, JR., TENNESSEE

MAJORITY—(202) 225-4331
(TTY)—(202) 225-6572
MINORITY—(202) 225-2735
(TTY)—(202) 225-2115

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS
COMMITTEE ON EDUCATION AND THE WORKFORCE
U.S. HOUSE OF REPRESENTATIVES
2181 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6100

June 2, 1999

Dr. Pascal D. Forgione, Jr.
Commissioner
National Center for Education Statistics
555 New Jersey Avenue, NW Room 400F
Washington, DC 20208

Dear Dr. Forgione:

Thank you for your testimony at our May 27, 1999, hearing on the "Review and Oversight of the 1998 Reading Results of the National Assessment of Educational Progress (NAEP) - the Nation's Report Card." Your views were extremely helpful in understanding the need to ensure that NAEP, NAGB and NCES are as independent possible to protect their integrity. I will certainly do what I can to strengthen their independence when the Committee reauthorizes NAGB and NCES in the coming year.

We did not have time to address all of the questions we wished to ask of you at the hearing. Attached are the questions we would like for you to submit to responses to in writing. If possible, we would like these responses by June 8.

Thank you very much for your efforts to protect the integrity of NAEP and for appearing before my Subcommittee.

Sincerely,

PETE HOEKSTRA
Chairman

Attachment

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MAJORITY MEMBERS:
 PETER HOEKSTRA, Michigan, Chairman
 CHARLIE NORWOOD, Georgia, Vice Chairman
 VIKI HILLARY, Tennessee
 BOB SCHAPIRO, Colorado
 THOMAS S. TANCREDO, Colorado
 BRIAN FLETCHER, Kentucky



MINORITY MEMBERS:
 TIM ROEMER, Indiana, Ranking Member
 ROBERT C. BOBBY BOUTT, Virginia
 ROY FORD, Wisconsin
 HAROLD E. FORD, Jr., Tennessee

MAJORITY- (202) 225-4327
 (TTY)- (202) 225-3572
 MINORITY- (202) 225-3775
 (TTY)- (202) 225-3119

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS
 COMMITTEE ON EDUCATION AND THE WORKFORCE
 U.S. HOUSE OF REPRESENTATIVES
 2181 RAYBURN HOUSE OFFICE BUILDING
 WASHINGTON, DC 20515-6100

June 2, 1999

Mr. Mark D. Musick
 Chairman
 National Assessment Governing Board
 800 North Capitol Street, NW Suite 825
 Washington, DC 20002

Dear Mr. Musick:

Thank you for your testimony at our May 27, 1999, hearing on the "Review and Oversight of the 1998 Reading Results of the National Assessment of Educational Progress (NAEP) - the Nation's Report Card." Your views were extremely helpful in understanding the need to ensure that NAEP, NAGB and NCES are as independent possible to protect their integrity. I will certainly do what I can to strengthen their independence when the Committee reauthorizes NAGB and NCES in the coming year.

We did not have time to address all of the questions we wished to ask of you at the hearing. Attached are the questions we would like for you to submit to responses to in writing. If possible, we would like these responses by June 8.

Thank you very much for your efforts to protect the integrity of NAEP and for appearing before my Subcommittee.

Sincerely,

PETE HOEKSTRA
 Chairman

Attachment

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QUESTIONS SUBMITTED FOR WRITTEN RESPONSE

RELEASE OF SCORES

1. In your opinion, to ensure the integrity of the dissemination of data, is it necessary for the Commissioner of Education Statistics to release the results of National Assessment data?
2. With regard to the comments the Vice President made to release the 1998 NAEP reading results on February 10, 1999:
 - Did the Vice President's comments reflect - in total - the findings of the National Assessment data?
3. Did you write the statement for the Vice President for the release? Did anyone from the Vice President's office consult with you about his statement?
4. Who informed your office that the press conference agenda had been changed and the Vice President would be releasing the results before you? Did you object to this deviation from NAGB approved release plan?
5. Who made the decision that the NAEP scores should be released at 10 am even though the press conference was at 11 am on Feb. 10? When was this decision made?
6. Do you know for certain that the scores were actually posted on the web site at 10 am?
7. Was the press notified that the results would be released on the web site at 10 am? Was anyone officially noticed of this? Was the web address printed on any information about the release?
8. Is there any evidence that any press used the Internet to obtain the results?
9. Was there a press embargo on the release of the results until 11 am? Who decided that the embargo would be until 11 and not 10?
10. Were you aware that Deputy Secretary Mike Smith was invited to the release? Who invited him?
11. If he had not been present, who would have handled the questions and answers?
12. Did Dep. Secretary Smith, in your opinion, reflect the complete context of the NAEP results (1992-1994)? Or did he focus on the scores as contextualized by Vice President Gore (1994-1998)?

13. Should NAEP and NAGB, as well as NCES and, indeed, the education research agency, be detached from the Department of Education and made an independent agency?
14. To your knowledge has anyone in the Department of Education requested or initiated additional analyses of NAEP scores in 1998, 1996 or 1994?
15. When are the scores released to the Department of Education? Is there any policy governing when the Department receives the results?
16. Is there any legislation or policy that would prohibit the Department from delaying the release of the results?

QUESTIONS ON NAEP INCLUSION POLICY

1. Why did NAEP inclusion policy change in 1996? Were exclusion rates increasing when this policy change was made in 1996?
2. Was this inclusion policy decision initiated by NCES or NAGB? If not, then by whom? Who was finally in charge of this decision? What was the role of the Departments' Equity Task Force? Of the Office of Civil Rights (OCR)? Of OSERS (Office of Special Education and Rehabilitative Services)?
3. Did NCES or NAGB ever consider field testing the new inclusion policy specifically for the reading test?
4. Since the new inclusion policy does not appear to increase the proportion of disabled and LEP students included in the test, why was it changed for the reading test? Was there any risk of compromising the results by changing the criteria?
5. What was learned from the 1996 inclusion experience? How were these findings put into use as plans were made for the 1998 Reading Assessment?
6. When can NAGB expect to receive from NCES the analysis of the 1996 NAEP tests, which tested the new inclusion policy?

QUESTIONS ON THE EFFECT OF EXCLUSION ON THE 1998 NAEP READING SCORES

1. In the final analysis, how accurate are these scores? Are state scores really comparable?
2. Will any state's score be changed as a result of your analysis?

3. Do schools interpret these inclusion rules in the exact same way? If not, does this affect scores?
4. LEP students are now excluded if they have had less than three years of bilingual instruction. Before the policy was changed it was two years. Would this in effect exclude more students than the 1994 test and possibly affect scores for states like Texas and California?
5. What proportion of schools are monitored as part of the administration of NAEP? Is this the same proportion as the 1994 NAEP?
6. Why hasn't ETS released as part of their analysis of the 1998 NAEP 4th Grade Reading test the actual scores of states after adjusting them for exclusion rates?



U.S. DEPARTMENT OF EDUCATION
OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

NATIONAL CENTER FOR EDUCATION STATISTICS

June 14, 1999

The Honorable Pete Hoekstra
Chairman
Subcommittee on Oversight and Investigations
Committee on Education and the Workforce
U.S. House of Representatives
2161 Rayburn House Office Building
Washington, DC 20515-6100

Dear Representative Hoekstra:

I am responding to your letter of June 2 regarding the follow up questions related to the May 27th hearing. I have attached my response to the 28 specific questions in three parts as requested.

If you need any further clarification, I can be reached at 202-219-1828.

Best regards.

Sincerely,

Pascal D. Forgione, Jr., Ph.D.
Commissioner of Education Statistics

WASHINGTON, D.C. 20208-

Subcommittee on Oversight and Investigations
Committee on Education and the Workforce
U.S. House of Representatives
Washington, D.C.

NATIONAL CENTER FOR EDUCATION STATISTICS
RESPONSES TO QUESTIONS
IN THE JUNE 2, 1999 LETTER

Submitted to:

Representative Peter Hoekstra
Committee on Education and the Workforce

Submitted by:

Pascal D. Forgione, Jr., Ph.D.
Commissioner
National Center for Education Statistics
Office of Educational Research and Improvement
U.S. Department of Education

June 14, 1999

Release of Scores

1. In your opinion, to ensure the integrity of the dissemination of data, is it necessary for the Commissioner of Education Statistics to release the results of National Assessment data?

Yes, absolutely.

2. With regard to the comments the Vice President made to release the 1998 NAEP reading results on February 10, 1999:

Did the Vice President's comments reflect - in total - the findings of the National Assessment data?

No, the Vice President's comments did not reflect - in total - the findings of the National Assessment data. His comments concentrated on NAEP results from 1994 to 1998.

3. Did you write the statement for the Vice President for the release?

No, I did not write nor review the Vice President's statement for the release.

Did anyone from the Vice President's office consult with you about his statement?

No, we did not see the Vice President's comments prior to the February 10, 1999 press release.

4. Who informed your office that the press conference agenda had been changed and the Vice President would be releasing the results before you?

The Department of Education's Office of Public Affairs informed my office that the press conference agenda had been changed and the Vice President would be opening the press conference at 11 am on February 10th. However, I did not expect that the Vice President would announce the results. I was also concerned that this departure from the NAGB protocol would not be a good precedent.

Did you object to this deviation from NAGB approved release plan?

Yes, and I asked for NAGB to be informed of this as well.

5. Who made the decision that the NAEP scores should be released at 10 am even though the press conference was at 11 am on February 10?

Since arrangements had already been made to make the national reading data electronically available at 10 am, following the original press conference schedule, I made the decision to maintain the release time to avoid any possible confusion or mistakes in getting these data out electronically that morning.

When was the decision made?

Once NCES was informed that the Vice President would attend.

6. Do you know for certain that the scores were actually posted on the web site at 10 am?

NCES web site technicians were instructed to post the scores at 10 am. At approximately 10:15, we verified that the information was posted on our web site.

7. Was the press notified that the results would be released on the web site at 10 am?

The press was not notified by NCES. I do not believe that the Department was aware that the data would be electronically available at 10 am on the Web.

Was anyone officially notified of this?

No. (However, NCES had earlier notified the NAEP clients, beginning in January, that these results would be released on February 10th at a 10 am press conference.)

Was the web address printed on any information about the release?

Not on anything released in advance by NCES. The Department's press release (which was embargoed until February 10th at 11 am) contained the following statement:

"Single copies of the report are available by calling 1-877-4EDS-PUBS (1-877-433-7872). The report also will be available on the Internet at <http://nces.ed.gov/>."

8. Is there any evidence that any press used the Internet to obtain the results?

The press was not directed to the Internet until after the press conference. However, there is no way of identifying who obtains information from our web site.

9. Was there a press embargo on the release of the results until 11 am?

The embargo on the report was until 2/10/99 11:00 am.

Who decided that the embargo would be until 11 and not 10?

The Department and NCES agreed that the embargo on the written material being distributed should be moved to 11 am after the press conference was changed to 11 am.

10. Were you aware that Deputy Secretary Mike Smith was invited to the release?

My office was not aware that the Deputy Secretary was invited to the release.

Who invited him?

I don't know.

11. If he had not been present, who would have handled the questions and answers?

Generally, the Commissioner and/or Secretary Riley answer all questions.

12. Did Dep. Secretary Smith, in your opinion, reflect the complete context of the NAEP results (1992-1994)? Or did he focus on the scores as contextualized by Vice President Gore (1994-1998)?

Like the Vice President, the Deputy Secretary concentrated on NAEP results from 1994 to 1998.

13. Should NAEP and NAGB, as well as NCES and, indeed, the education research agency, be detached from the Department of Education and made an independent agency?

I do not feel qualified to speak on the appropriate location of NAGB or the Department's research functions. With respect to NCES, I have been discussing the issue with Department staff in preparation for the NCES legislative proposal. Since the legislative proposal must first be cleared by OMB, I will respond substantively to this question in a separate statement. As requested by Rep. Castle at the hearing, I will be providing recommendations for your consideration in the following areas: authority and duties of the Commissioner, personnel authority and appointment of employees, authority to publish and more flexible use of federal appropriations.

14. To your knowledge has anyone in the Department of Education requested or initiated additional analyses of NAEP scores in 1998, 1996 or 1994?

On occasion, the Department does conduct analyses or requests that NCES conduct analyses of released NAEP data. For example, following the release of the 1994 NAEP Reading results, the Department asked NCES to look into the drop in the average national reading scores among 12th grade students between 1992 and 1994. In addition, the Department's Planning and Evaluation Service (PES) regularly analyzes NAEP data as part of its monitoring of the Title I program and its impacts.

15. When are the scores released to the Department of Education?

NCES does not release data to the Department of Education. When the Commissioner releases the NAEP reports, the data become available to all interested parties, both within and outside government.

Is there any policy governing when the Department receives the results?

Yes. There are procedures and practices used during the formal adjudication/review of all NCES reports. Materials are shared with reviewers under a confidential arrangement that provides independent reviews and feedback to NCES on reports under development. In this fashion, NAEP reports are similarly reviewed by Department staff prior to the formal release.

16. Is there any legislation or policy that would prohibit the Department from delaying the release of results?

No, I am not aware of any legislation that would prohibit the Department from delaying the release of results.

Questions for NAEP Inclusion Policy

1. Why did NAEP inclusion policy change in 1996?

NAEP policy has always been to include as many students as possible. Students with disabilities (SD) and limited-English-proficient (LEP) students were always included in the NAEP samples.

In the mid-1990's the Department of Education began to place more emphasis on the participation of SD and LEP students in state assessments. The reauthorized Individuals with Disabilities Act (IDEA), for example, requires that all students be assessed in some form.

To make NAEP more representative of the nation's students, NAEP needed to take steps to increase the participation of these students. NAEP inclusion policy did not change, but the objective of increased inclusion took on greater priority. To accomplish this objective, in 1996 the criteria for inclusion provided to local schools were changed to make them more realistic and more objective, and accommodations were offered to a sub-sample of students for the first time.

Were exclusion rates increasing when this policy change was made in 1996?

Exclusion rates were increasing at the time these changes were made. For example, in the 1992 reading assessment, 8 percent of students were excluded at grade 4, while in the 1994 reading assessment, 9 percent were excluded.

2. Was this inclusion policy initiated by NCES or NAGB? If not, then by whom? Who was finally in charge of this decision? What was the role of the Departments' Equity Task Force? Of the Office of Civil Rights (OCR)? Of OSERS (Office of Special Education and Rehabilitative Services)?

The main impetus for the changes in NAEP inclusion policies came not from the program or the program staff but rather from inside the Department of Education and the federal government. The old NAEP inclusion criteria were viewed by the Office of Civil Rights, OSERS, OBEMLA (Office of Bilingual Education and Minority Languages Affairs), and the Office of General Counsel (OGC) as too open to misinterpretation and misuse. In addition, not offering accommodations was considered a barrier to the participation of SD and LEP students. The Equity Task Force spurred NAEP to become more proactive in increasing inclusion of these students.

After a series of meetings with other departmental offices, NCES decided to use new criteria for inclusion at the local school, as well as to provide accommodations. NAGB endorsed the 1996 NAEP design in which these changes would be tried on an experimental basis for sub-samples of students.

3. Did NCES or NAGB ever consider field testing the new inclusion policy specifically for the reading test?

In the 1997 field test for the 1998 reading assessment, various accommodations were tested for their feasibility. Because the field test employs a small non-representative sample, it was not possible to use the field test to anticipate the effect of overall exclusion rates in the main assessment.

The 1995 field test and the 1996 assessment served as background for the 1998 assessment. The new inclusion criteria and the use of accommodations were fully tested in those assessments. The experience gained thereby was used to formulate the 1998 assessment design.

4. Since the new inclusion policy does not appear to increase the proportion of disabled and LEP students included in the test, why was it changed for the reading test? Was there any risk of compromising the results by changing the criteria?

The new criteria and the provision of accommodations, first used in 1996, were incorporated into NAEP to further the departmental objective of greater inclusion. The 1996 design permitted the evaluation of the new procedures. It was concluded that changing the criteria did not have a significant effect on the inclusion rate, while provision of accommodations increased participation of SD and LEP students. These changes do not risk compromising NAEP results when a new assessment is being implemented. Accordingly for reading, a trend assessment, we used a special sample of students who were offered accommodation but whose scores were not included in the official report.

5. What was learned from the 1996 inclusion experience? How were these findings put into use as plans were made for the 1998 Reading assessment?

The 1996 inclusion experience indicated that the new inclusion criteria might result in some increased exclusion of LEP students, although the data were not conclusive. No increase in exclusion of SD students was encountered in 1996. Therefore, it was decided to use the new inclusion criteria for the reporting sample in the reading assessment, and to offer accommodations but not include data for accommodated students in the reported results. Research has further indicated that neither the new criteria nor the provision of accommodations had an effect on overall average scores.

6. When can NAGB expect to receive from NCES the analysis of the 1996 NAEP tests, which tested the new inclusion policy?

Results from the 1996 NAEP field test have been shared with NAGB and others in the Department in meetings and memoranda, as they became available. Also, NAGB staff were included as members of the adjudication team for the "Special Needs" report in early May 1999. In that meeting, it was determined that the report should be delayed until result from the Reading assessment could be incorporated. We anticipate a winter 1999-2000 release date.

Questions on the Effect of Exclusion on the 1998 NAEP Reading Scores

1. In the final analysis, how accurate are these scores?

NAEP scores are more accurate than scores from any other source, such as those of test publishers. Excluded students represent such a small proportion of the student population that their performance usually does not have an impact on total state scores. Similarly, post hoc evidence gathered to date indicate that the impact of increased exclusion rates on state trend scores is negligible. In addition, NAEP can report a known margin of error that describes exactly how accurate NAEP scores are.

Are state scores really comparable?

Yes, state scores for those states that meet minimal sampling standards are comparable. Differences in performance among states and jurisdictions most likely reflect an interaction between the effectiveness of the educational programs within a state or jurisdiction and the challenges posed by economic constraints and student demographic characteristics, including differences in exclusion rates.

2. Will any state's scores be changed as a result of your analysis?

No state scores will be changed.

3. Do schools interpret these inclusion rules in the exact same way? If not, does this affect scores?

NAEP gives all schools the same guidelines, and schools are requested to include any students whose capability to participate meaningfully is in doubt. Judgment about particular students, and about the interpretation of state practices concerning the implementation of IDEA policies can vary. We believe that the impact of school differences in interpretation of inclusion rules on NAEP scores is minimal.

4. LEP students are now excluded if they have had less than three years of bilingual instruction. Before the policy was changed it was two years. Would this in effect exclude more students than in the 1994 test and possibly affect scores for states like Texas and California?

Neither Texas nor California experienced a significant increase in the percentage of LEP students excluded from the 1998 NAEP Reading assessment when compared to the 1994 assessment. Thus, this policy change did not affect NAEP scores in Texas and California.

5. What proportion of schools are monitored as part of the administration of NAEP? Is this the same proportion as the 1994 NAEP?

Fifty percent of the schools are monitored as part of the NAEP administration for jurisdictions that are new to the State assessment. Otherwise, 25 percent of the schools in a jurisdiction are monitored.

6. Why hasn't ETS released as part of their analysis of the 1998 NAEP 4th Grade Reading test the actual scores of states after adjusting them for exclusion rates?

Much of the analysis that ETS has conducted around this issue represents hypothetical assumptions to provide a rough estimate of the possible effect. There is no way of knowing the true impact of increased exclusion rates on NAEP scores because the students in question never took the assessment. In addition, the National Assessment Governing Board policy prohibits NCES from making statistical adjustment to NAEP scores.



National Assessment Governing Board

National Assessment of Educational Progress

June 9, 1999

The Honorable Peter Hoekstra, Chairman
Subcommittee on Oversight and Investigations
Committee on Education and the Workforce
U.S. House of Representatives
2181 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Hoekstra:

Enclosed are responses to the written questions you asked me as a follow-up to the Subcommittee hearing on May 27. The answers were prepared with the assistance of Governing Board staff. Where there are Board policies that pertain to the questions, the staff and I have attempted to reflect those policies. Where Board policies are not applicable, I have in some cases given my own opinion as Board chairman, though the Board may adopt policies in these areas in the future.

I appreciate the many statements of support for the integrity and independence of the National Assessment of Educational Progress and its Governing Board, which were made at the Subcommittee meeting.

If you need further information, please contact me or Roy Truby, the Board's Executive Director, at (202) 357-6938.

Sincerely,

Mark D. Musick
Chairman

Enclosures

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**MARK D. MUSICK, CHAIRMAN
NATIONAL ASSESSMENT GOVERNING BOARD**

**RESPONSE TO WRITTEN QUESTIONS
From Subcommittee on Oversight and Investigations
Committee on Education and the Workforce
U.S. House of Representatives**

June 9, 1999

QUESTIONS ON RELEASE OF SCORES

Question 1: Is the NAGB policy regarding reporting and dissemination of National Assessment data a binding regulation or merely a suggestion to be followed by the National Center for Education Statistics?

The Governing Board policy on reporting and dissemination of the National Assessment was adopted under provisions of P.L. 103-382, the NAEP authorizing legislation. Among the duties that the law specifically gives to the Board are: (1) "develop(ing) guidelines for reporting and disseminating (NAEP) results" and (2) "develop(ing) standards and procedures for interstate, regional, and national comparisons." The law also says that the Commissioner of Education Statistics shall "carry out" the National Assessment "with the advice of the National Assessment Governing Board."

The Board policy has been followed almost completely since it was first adopted in November 1990 with only two important exceptions—the reading releases of May 1992 and February 1999. However, the authority of the Board to make sure its policy is carried out is unclear.

Question 2: Is NAGB required to approve a release plan for National Assessment data?

- **If so, is NAGB required to approve any and all deviations from the originally approved release plan?**

There is no legislative requirement for NAGB to approve a release plan for National Assessment data. However, under the Board's reporting and dissemination policy, "Any initial public release of NAEP data shall be made only in accord with a specific plan and timetable approved in advance by the Governing Board or one of its duly constituted committees." The Board has a clear expectation that its policies and approved plan will be followed and that any proposed deviations from an approved plan will be presented to the Board for approval.

Question 3: Who informed your office that the press conference agenda had been changed and the Vice President would be releasing the results before you? Did you object to this deviation from the NAGB-approved release plan?

I did not know the order of the presentations at the February 10 press conference until I arrived at the Department of Education auditorium that morning. As I wrote in my letter to Commissioner Forgione, dated February 18, I expressed my concern to him immediately after the release that "the way the event unfolded would be perceived, understandably, as an announcement of results by the Vice President, rather than by the Commissioner..., and that there were some significant political overtones." My letter was sent to the Commissioner on February 18 because the Executive Committee of the National Assessment Governing Board had a previously scheduled teleconference on February 17 and this matter was discussed as part of that meeting.

Question 4: Were you aware that Acting Deputy Secretary Smith was invited to the release? Who invited him?

Secretary Riley invited Acting Deputy Secretary Smith to speak at the press conference after Commissioner Forgione and I finished our statements.

Question 5: If he (Marshall Smith) had not been present, who would have handled the questions and answers?

Commissioner Forgione, Secretary Riley, and I would have answered press questions, as provided for in the release plan. Staff was available from the National Center for Education Statistics and Educational Testing Service (the NAEP grantee) to answer data questions that we could not handle.

Question 6: Did Dep. Secretary Smith, in your opinion, reflect the complete context of the NAEP results (1992-1994)? Or did he focus on the scores as contextualized by Vice President Gore (1994-1998)?

Acting Deputy Secretary Smith emphasized the NAEP reading score gains since 1994, which he said was the "base year" for the Administration's education programs.

Question 7: To your knowledge has anyone in the Department of Education requested or initiated additional analyses of NAEP scores in 1998, 1996, or 1994?

This is a question that probably would be better directed to the National Center for Education Statistics. I do know that Acting Deputy Secretary Smith noted at the February 10

reading release that when he learned NAEP reading scores had dropped in 1994, he asked for several additional analyses to determine whether the data were correct. These confirmed the accuracy of the results, which were released on April 27, 1995, about two weeks later than the April 12 release date approved by NAGB.

Shortly before the 1994 NAEP long-term trend results were released in October 1996, Acting Deputy Secretary Smith asked for additional analyses of trends, using a non-linear (or quadratic) approach as well as straight-line, linear analysis.

Additional NAEP tabulations on children in high-poverty schools have been conducted by Educational Testing Service at the direction of NCES for the Department of Education's Planning and Evaluation Service. These have been used in reports on Title I. Some data were given to the evaluation service on an embargoed basis before the February 10 release and were used in a report to Congress about two weeks later.

Question 8: When are scores released to the Department of Education? Is there any policy governing when the Department receives the results?

As noted earlier, the NAEP program is carried out or administered by the Commissioner of Education Statistics. The Commissioner is head of the National Center for Education Statistics, which is part of the Department of Education. Since the role of the Board is to "formulate policy guidelines", NAGB is not privy to contacts between NCES and other parts of the Education Department.

Under NAGB policy, copies of NAEP reports may be provided to federal and state officials on an embargoed basis prior to public release. The policy does not state how far in advance this information may be provided. The reading release plan, approved by NAGB in November 1998, stated that NCES would provide embargoed briefings a "week before release" for the Secretary and Assistant Secretary of Education. In release plans for some earlier NAEP reports, the embargoed briefing was provided two days before public release. Pre-release briefings also are given to Congressional staff.

Question 9: Is there any legislation or policy that would prohibit the Department from delaying the release of the results?

No such legislation exists. Under P.L. 103-382, NCES is established "within the Office of Educational Research and Improvement" of the Department of Education. The legislation states that NAEP is to be carried out by the Commissioner of Education Statistics. As head of NCES, the Commissioner is part of the organizational structure of the Department.

Under the Governing Board policy on NAEP reporting, "The release date, time, and manner of release of NAEP results shall be determined by the Commissioner of Education Statistics with the approval of the Governing Board." Board policy also sets as a goal that NAEP results should be released within six to nine months after testing. However, as noted in the answer to Question 1, the authority of the Board to enforce its policy is not clear.

Question 10. Prior to February 10, had the Department of Education ever overridden NAGB policy?

Board policies have been followed almost completely in more than two dozen NAEP data releases since 1990 with only two important exceptions. The first, in May 1992, was the premature release of NAEP reading results by President Bush at a school visit and political fundraiser in Atlanta. The second was this past February when Vice President Gore announced 1998 reading results in the Education Department auditorium.

In both cases, the Governing Board clearly and publicly expressed its concern that these actions were contrary to the Board policy on insulating NAEP "from partisan political considerations and processes."

Question 11. What are the most important powers or decisions bearing on NAEP that are NOT within the Board's exclusive control today?

As I said during the May 27 hearing, there is "shared ambiguity" between the Board and the Commissioner of Education Statistics over almost all decisions pertaining to the National Assessment of Educational Progress. For the past three years we have worked together cooperatively with Commissioner Forgione. The Commissioner has administrative responsibility for NAEP and awards and supervises the contracts and grants for NAEP operations.

The ambiguities surrounding the National Assessment, which go back to the establishment of NAGB in 1988, are in contrast to the situation for the proposed voluntary national tests for individual students, which are to be based on NAEP content and performance standards. Under P.L. 105-277 "exclusive authority over the direction and all policies and guidelines for developing" these proposed tests is vested in the National Assessment Governing Board. Under the current law for NAEP, the Board has "final authority" in only one area, "the appropriateness" of test questions.

Question 12: Should NAEP and NAGB, as well as NCES, and, indeed, the education research agency, be detached from the Department of Education and made an independent agency?

The Governing Board has always supported independence for NAEP under the direction of a bipartisan, independent, and widely-representative board. The law should make it clear that the Governing Board determines policy direction and does not just give advice.

At the time of its first reauthorization in 1994, the Board supported the Administration's proposal, which closely followed the original statute establishing NAGB. The law that was eventually enacted changed some of those provisions. Frankly, I believe the changes increased the "shared ambiguity" in which the National Assessment Governing Board operates. They also decreased the Board's independence and its ability to act as a "buffer," as envisioned by the blue-ribbon panel that recommended its creation, protecting NAEP from "manipulation by any individual, level of government, or special interest within the field of education."

The upcoming reauthorization provides an opportunity for the Board to consider its views again on the best institutional arrangements for NAEP and NAGB.

Question 13: During the upcoming NAEP/NAGB reauthorization, what are the best ways for Congress to build an institutional firewall between NAEP and NAGB on the one hand, and political and interest group pressures on the other?

We believe that NAEP should have a strong independent Governing Board with clear policy authority.

The Board's views on the statute under which it operates were expressed in 1994 during the first reauthorization process. Since then, the Board has sought to achieve its mission under the revised statute. When a new reauthorization proposal comes before Congress, I am sure the Board will again express its views on the laws under which the National Assessment and the Governing Board should operate.

QUESTIONS ON NAEP INCLUSION POLICY

Question 1: Why did NAEP inclusion policy change in 1996? Were exclusion rates increasing when this policy change was made in 1996?

Exclusion rates for students with disabilities (SD) and limited English proficiency (LEP) were not increasing during the 1990s, but they were significantly high. Almost half of SD and LEP students were excluded at the time the policy change was made. In part for this reason, and also to reflect state practices in testing SD and LEP students, the NAEP criteria for inclusion were changed. As students with disabilities increasingly were included in regular education classes, the old criterion, based on the percent of time a student was taught in separate classes, became less effective and meaningful.

The new criteria rely on the nature of the curriculum taught to the students and the requirements of their individualized education plans (IEP) as the determinant for inclusion, rather than the percent of time in regular education classes. For LEP students, the NAEP criterion was changed to be similar to that used by states with high concentrations of LEP students. The Individuals with Disabilities Education Act, signed into law in 1997, promotes greater inclusion of students with disabilities in testing with appropriate accommodations, which NAEP now offers in some cases.

Question 2: Was this inclusion policy decision initiated by NCES or NAGB? If not, then by whom? Who was finally in charge of this decision? What was the role of the Department's Equity Task Force? Of the Office for Civil Rights (OCR)? Of OSERS (Office of Special Education and Rehabilitative Services)?

The Equity Task Force was an impetus within the Department of Education for increasing participation of SD and LEP students in NAEP and other testing programs. OCR and OSERS were represented on the Equity Task Force. NCES made a set of recommendations for increasing participation of students with disabilities and limited English proficiency in NAEP. NAGB discussed the recommendations, made modifications, and, in August 1995, approved the final plans for the 1996 mathematics and science assessments. These plans included research studies on new inclusion criteria and test accommodations to determine their impact on student participation and test results. (See materials under questions 3 & 4 in "Volume II, Responses to Questions on 1998 Reading Scores and Exclusion Rates," submitted by NAGB in May 1999.)

NCES proposed in early 1997 that appropriate test accommodations should be offered to SD and LEP students to increase participation in NAEP testing. NAGB agreed in March 1997 that the 1998 assessments in civics and writing—two new exams—would offer a specified list of accommodations to students who usually receive them in their local testing programs. In the 1998

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reading assessment, where maintaining the trend was important, accommodations were offered in research samples, but only students tested under standard conditions were included in the main reports of national and state results. However, the new inclusion rules were used throughout the 1998 NAEP.

Question 3: Did NCES or NAGB ever consider field testing the new inclusion policy specifically for the reading test?

The changes in the inclusion policy for NAEP were first tried out as part of the 1995 field test for the 1996 mathematics assessment. Research studies on the inclusion criteria and on accommodations were conducted as a component of the 1996 mathematics and science assessments. There was no field test of the new inclusion criteria specifically for the 1998 reading assessment because NCES believed that the information available at the time from the 1995-1996 research studies was sufficient.

Question 4: Since the new inclusion policy does not appear to increase the proportion of disabled and LEP students included in the test, why was it changed for the reading test? Was there any risk of compromising the results by changing the criteria?

The inclusion policy was changed for the 1998 reading assessment for the same reasons it was changed for the 1996 mathematics and science assessments—to better reflect school practices in states across the nation. States increasingly are mainstreaming students with disabilities in regular classes and testing students with limited English proficiency only after they receive three years of English language instruction. The new criteria were developed in coordination with state officials and with the advice of educators at the state and local levels. As a result of the 1995-1996 field test and research studies, the Board and NCES believed that there would not be a risk of compromising the reading scores as a result of changing the inclusion criteria.

Question 5: What was learned from the 1996 experience? How were these findings put into use as plans were made for the 1998 Reading Assessment?

The results from the 1996 inclusion studies, which NCES has provided to the Board so far, are included in the materials NAGB sent to the Committee in May under questions 1, 2, 4, and 9. The results indicate that changing the inclusion criteria had little impact on the proportion of SD and LEP students assessed, but that providing appropriate test accommodations did contribute to a significant increase in the participation of these students. The scores from testing with accommodations are not included in the reported results for the 1998 reading assessment, but a research study with accommodations was conducted. NCES plans to release this study in November 1999 at the same time as the full report on its 1996 research study. (See question 6.)

Question 6: When can NAGB expect to receive from NCES the analysis of the 1996 NAEP tests, which tested the new inclusion policy?

NAGB expected to receive a report on 1996 inclusion and accommodations research in May 1999. NCES says the report has been delayed until November.

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